

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.4097 OF 2016

Rajesh s/o. Uttamrao Landge,
Age: 37 Years, Occ. Service,
R/o.Tulsiram Nagar, Malegaon Road,
Taroda [Kh.], Tq. & Dist. Nanded **APPLICANT**

VERSUS

1. The State of Maharashtra
Through Kalamnuri Police Station
2. Vijay Vitthalrao Thorat,
R/o. Mauje Gadala, Tq.Kalamnuri,
Dist. Hingoli. **RESPONDENTS**

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Mr.D.M.Shinde, Advocate for the applicant
Mr.S.R.Yadav Lonikar, APP for the
Respondent/State
Mrs. Monika R. Dahat, Advocate for respondent
no.2.

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**CORAM: S.S.SHINDE &
K.K.SONAWANE, JJ.**

Reserved on : 07.12.2016
Pronounced on : 19.12.2016

ORDER: (Per S.S.Shinde, J.):

1. Heard the learned counsel appearing
for the applicant. He submits that even if
the allegations in the FIR are taken at its

face value and read in its entirety, the ingredients of the alleged offences have not been attracted. He further submits that from the year 2008 till 15th September, 2012, he was not incharge of the post of Naib Tahsildar [Supply]. He submits that it is only on 15th September, 2012 he received the charge of the post of Naib Tahsildar [Supply]. Therefore, he submits that since the alleged allegation of preparing forged documents, the involvement of the applicant from the period of 2008 is completely ruled out.

2. He further submits that during his period when he was working as Naib Tahsildar [Supply], he had supplied goods to the accused no.1 as per card registered i.e. for 168 ration cards consisting 559 people for the period of December 2012 to October 2013 and thereafter, he supplied the goods for 159 ration cards as per the list of card holder.

It is submitted that in stead of making the then Naib Tahsildar [Supply] as an accused, the present applicant is made as an accused only in order to harass the applicant. It is submitted that after 2002 the ration goods were distributed based on ration cards i.e. 35 kg per card and not on the basis of number of members of the card. Therefore, the alleged misappropriation itself has no substance. It is submitted that as per the averments in the complaint, the role is attributed to the accused nos. 2 and 4 that the accused no.2 prepared bogus list of persons and accused no.4 sanctioned the same, but no name of present applicant shown as he was not holding charge for the alleged period and the role is attributed to the other accused persons.

3. He further submits that the allocation of goods to the ration shop holder is purely in the domain of Tahsildar and he

can only sanction quota as per stock in Government warehouse and the applicant is no way concern with the alleged offences. The applicant was one of the Enquiry Officers, who sent the report against the ration shop holder, and therefore, the shop holders license was cancelled. If applicant had any role in the alleged illegal activities, then he would not have filed report against ration shop holder. Even the enquiry report also shows that the distribution of goods was for only 168 ration cards and not for 1009 cards as per the allegation of the complainant. He further invites our attention to the averments in the application, grounds taken therein and annexures thereto and submits that the alleged offences are not disclosed against the applicant, and therefore, the FIR may be quashed.

4. Pursuant to the notices issued to the respondents, one Shri Kundakumar Bapurao

Waghmare, working as Police Inspector, Police Station Kalamnuri has filed affidavit-in-reply. It is stated in the said affidavit-in-reply that during the investigation, it revealed that the applicant was serving as Incharge Tahsildar at Aundha on 03.09.2013 to 25.10.2013 and as a Naib Tahsildar from 15.09.2012 to 18.07.2014. It is stated that the enquiry was held by the Sub Divisional Magistrate and in the said report it is very clear that there was misappropriation of Government money by distributing grain and kerosene to the undeserving persons.

5. It appears from the perusal of the investigation papers that, during the investigation it is transpired that various ration cards were prepared in the name of minors, dead persons, and after enquiry it is found that some persons though members of the joint family, separate ration cards were issued in the name of husband and wife. Some

ration cards were prepared in the name of students and also in the name of persons who were not residing in the said village since last 14-15 years. It appears from perusal of the copies of documents collected during investigation that the applicant has made signatures acting as Tahsildar, Aundha Nagnath on the said documents.

6. We have carefully gone through the report and also investigation papers, the applicant has served as Naib Tahsildar for the period from 15th September, 2012 to 22nd July, 2014 at Aundha Nagnath. It is also mentioned that for considerable period he was holding additional charge of the post of Tahsildar. If the allegations in the FIR / complaint are perused carefully, the ingredients of the alleged offences have been disclosed. Upon careful perusal of the allegations in the FIR, it appears that, the allegations relate to the period 2008 to

2014. We do not wish to enter into the discussion on merits in respect of the material/documents collected by the Investigation Officer during the course of investigation. It is also not desirable to enter into the exercise of appreciation of documents and to find out the evidenciary value of the material collected by the Investigation Officer or the defences raised by the applicant while exercising jurisdiction under Section 482 of the Criminal Procedure Code.

7. In that view of the matter, the prayer of the applicant to quash the FIR stands rejected. Consequently, the application stands rejected.

8. However, we make it clear that the observations made herein before are *prima facie* in nature and confined to the adjudication of the present application. The

order passed today may not be construed as an impediment to the applicant to avail appropriate remedy as available in law in the event of filing of charge-sheet by the Investigation Officer.

Sd/-
[K.K.SONAWANE]
JUDGE

Sd/-
[S.S.SHINDE]
JUDGE