

heard finally by consent of learned counsel for respective parties.

2. Present application is filed by original accused Nos. 1 and 2 seeking to quash and set aside the First Information Report No. 3042/2015 registered at Chakur Police Station, Taluka Chakur, Dist. Latur on 01.09.2015, for the offence punishable under sections 7 and 12 of the Prevention of Corruption Act, 1988.

3. We have heard Mr. Deshmukh, learned counsel appearing for the applicants, Mr. Nerlikar, learned Additional Public Prosecutor appearing for respondent No.1 State.

4. Brief facts of the case may be stated as follows:

i. Respondent No.2 (since deleted) lodged a complaint to the Anti Corruption Bureau at Latur stating that original complainant namely Biban Sarvar Shaikh lodged a complaint alleging that his father was allotted the work of soling of road from village Mandurki to its graveyard and the concerned Sectional Civil Engineer, Panchayat Samiti, Chakur namely Mr. Kamble had taken measurement of the work and bill of the work was submitted to the concerned

authority of the State Government.

ii. On 12.08.2015, original complainant Mr. Shaikh had been to the office of applicant No.1 at Latur and inquired about the bill of his father, on which, applicant no.1 informed that the bill and the measurement book was not submitted to the Panchayat Samiti, Chakur and if it is to be submitted, then the original complainant has to pay him Rs.15,000/- otherwise, he will not submit the bill.

iii. Respondent No.2 (since deleted) has called two panchas and after following as usual procedure, he laid a trap. Accordingly, original complainant and pancha witnesses, members of the raiding party were proceeded towards the office of applicant No.1. Thereafter, respondent No.2(since deleted) laid a trap against the applicants. However, all the times, the trap was unsuccessful for the reasons stated in the complaint.

5. During the course of argument, Mr. Deshmukh, learned counsel appearing for the applicants has stated that taking into consideration all the contents of the complaint, no cognizable offence is disclosed against the applicants, therefore, the further

proceeding pursuant to the registration of crime is meaningless.

6. On perusal of the record, it appears that respondent No.2 (since deleted) had laid traps for four times, however, for sometimes, the applicants were not present at the office of applicant No.1 and on one occasion, applicant No.1 was found in the office, however, immediately, he came out from the office and went with one unknown person on the motorcycle. So taking into consideration the entire allegations in the first information report, we don't think that there is material to show that either applicant No.1 or applicant no.2, on behalf of applicant no.1, has demanded the bribe as alleged by the original complainant.

7. Learned APP has produced papers of investigation.

8. On security of papers of investigation, it appears that the prosecution has now mainly relied upon the conversations between original complainant Biban Shaikh and applicant Nos. 1 and 2 recorded on digital voice recorder. Transcript of it is produced on record. We have carefully gone through the transcript of the conversations, from which, it reveals that there is nothing on record to show that applicant no.1 has

demanded the bribe for submitting measurement book alongwith bill to the Panchayat samiti. There is no remote reference in the conversation that the applicant no.1 has demanded or applicant No.2, on behalf of applicant No.1, has demanded amount for doing the said work. In such circumstances, even the entire material placed before us is taken to be true, then also no cognizable offence is disclosed. Therefore, based upon such material, further proceeding against the applicants is meaningless, rather it is an abuse of process.

9. Mr. Deshmukh, learned counsel appearing for the applicants has produced and relied upon the following authorities:

- (1) Banarsi Dass Vs. State of Haryana, (2010)4 Supreme Court Cases 450,
- (2) K.S. Panduranga Vs. State of Karnataka, (2013) 3 Supreme Court Cases 721,
- (3) Satvir Singh Vs. State of Delhi, (2014) 13 Supreme Court Cases 143,
- (4) Krishnan Chander Vs. State of Delhi, AIR 2016 SUPREME COURT 298
- (5) M.K.Harshan VS. State of Kerala, (1996) 11 Supreme Court Cases 720,

10. We have gone through the facts and observations of the above authorities. The observations of the above authorities are not applicable to the facts of the present case simply because the observations of the above authorities are in regards with the conclusion of the trial and such observations cannot be made applicable to the facts of the present case because, herein, the present proceeding is at very initial stage and we are examining whether the material placed before us is sufficient to constitute cognizable offence or not, that too even *prima facie*.

11. In relation to the above, it is material to note that it is well settled principle of law that the High Court ordinarily would not exercise its inherent jurisdiction to quash a criminal proceeding and, in particular, a first information report unless the allegations contained therein, even if given face value and taken to be correct in their entirety, disclosed no cognizable offence. For the said purpose, except in very exceptional circumstances, powers to quash and set aside criminal proceedings has to be exercised. While doing so, the documents relied and produced by the defence are not to be looked into. If the allegations made in

the first information disclose commission of offence, the Courts would not go beyond the same and pass order in favour of the accused.

12. Here, in the present case, taking into consideration the face value of the documents /material produced on record, no offence is made out even *prima facie*. In such circumstances, further criminal proceeding against the applicants is meaningless. Therefore, we are of the opinion that the Information Report No. 3042/2015 registered at Chakur Police Station, Taluka Chakur, Dist. Latur on 01.09.2015 against the applicants has to be quashed and set aside. Accordingly the application is allowed.

13. The Information Report No. 3042/2015 registered at Chakur Police Station, Taluka Chakur, Dist. Latur on 01.09.2015 against the applicants for the offence punishable under sections 7 and 12 of the Prevention of Corruption Act, 1988 is hereby quashed and set aside.

14. Rule is made absolute accordingly.

(K. L. WADANE, J.)

(R. M. BORDE, J.)

JPC