

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 2360 OF 2014

Samadhan Manohar Jadhav & Anr.

... Petitioners

V/s.

The State of Maharashtra

... Respondent

...

Mr. Shekhar Ingawale i/b. Ganesh Bhujbal, for the Petitioners.

Dr. F. R. Shaikh, A.P.P. for the State.

CORAM : A. S. OKA & A. A. SAYED, JJ.

DATE : 30 AUGUST, 2016.

P.C. :

1. Heard the learned counsel appearing for the petitioners. By this petition under Article 226 of the Constitution of India, the prayer is for quashing the First Information Report registered for offences under Section 406, 409, 420 read with Section 34 of the I.P.C. The First Information Report has been registered at the instance of the Block Development Officer of Taluka - Mohol District- Solapur. Under the scheme of "Nirmal Bharat Abhiyan", a sum of Rs.1,29,43,074/- was received from the Central Government during the year 2013-14. As per the said scheme, various categories of persons below the poverty line were to be the beneficiaries for grant

of certain amounts for construction of toilets. Under the scheme, after the toilets are constructed by the eligible persons, a sum of Rs. 4600/- was required to be credited to the respective Bank Accounts of the such persons.

2. It is alleged in the statement of the Block Development Officer that there were several illegalities found in the matter of the distribution of the amounts to the beneficiaries. For example, it is stated that out of 2394 beneficiaries, in case of 257, on more than two occasions, the amount of Rs.4600/- is shown to have been paid. The present petitioners were Gramsevaks of villages Wafale and Soundane.

3. The learned Counsel appearing for the petitioners relied upon the report submitted by the Inquiry officer – cum - Block Development Officer, Zilla Parishad, Solapur. He submitted that against certain persons found involved, the inquiry officer recommended setting criminal law in motion. However, as far as the present petitioners are concerned, he has recorded a finding that both of them have committed irregularities in the matter of

distribution of the amount. He submitted that only recommendation of the Inquiry officer was that, after fixing the responsibility, administrative action/disciplinary action should be initiated against the petitioners. He submitted that in view of the said report, it is obvious that the allegations made by the Block Development Officer in his statement on the basis of which the impugned First Information Report was registered are totally unfounded. By relying upon the Resolutions of the Grampanchayat which are at pages 23 and 24 of this petition, he submitted that in fact the petitioners were the persons who protested about the illegalities.

4. We have considered the submissions. We perused the report submitted by the Block Development Officer. In the first paragraph of the report, it is stated that it is not a final report but it is a report submitted on a preliminary inquiry, in which it is observed that the present petitioners have indulged in irregularities. The alleged Resolutions at pages 23 and 24 cannot be considered for more than one reason. Firstly, On the said resolutions, even the resolution number is not mentioned. Secondly, what is recorded in

the Resolutions cannot be said to be a gospel truth. We have perused the statement of the Block Development Officer on the basis of which the First Information Report was registered. There is a serious allegation made therein of misappropriation of various amounts of the total sum of Rs.29,70,550/-. First information Report is filed by the Block Development Officer in his official capacity. The First Information Report cannot be an exhaustive compendium of all the facts. The role allegedly played by the petitioners is a matter of investigation.

5. Therefore, at this stage, in writ jurisdiction under Article 226, the First Information Report cannot be quashed. Accordingly, we reject the petition. We, however, make it clear that we have made no final adjudication on the role attributed to the petitioners. The observations made in this petition are for limited purpose of considering whether interference can be made at this stage.

(A. A. SAYED, J.)

(A. S. OKA, J.)