

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1007 OF 2017
WITH
CRIMINAL APPLICATION NO. 1093 OF 2017

Aparna Vishwasrao Borse **....Applicant.**

Versus

The State of Maharashtra **....Respondent.**

Mr. Subodh P. Shah, Advocate for applicant.

Mr. R.V. Dasalkar, APP for respondent.

Mr. V.G. Salgare, Advocate for intervenor.

CORAM : T.V. NALAWADE, J.
DATED : March 21, 2017.

ORDER :

1. The application is filed for relief of anticipatory bail in C.R. No. 34/2017 registered in Tahsil Police Station, Dhule for the offences punishable under sections 406, 408, 409, 420, 467, 468, 471, 34 etc. of the Indian Penal Code. Both the sides are heard.

2. Original complainant - Kishor Koli was appointed as Shikshan Sevak in the institution of the present applicant in the year 2011. As Kishor Koli did not get appointment on regular post, he filed writ petition in the year 2014. He was required to

file one more writ petition. It appears that Koli was not given regular post and he was also terminated by the employer.

3. It is the grievance of the complainant Koli that even the honorarium, which he had right to receive as Shikshan Sevak, was not paid to him. This aspect was considered by this Court in the second writ petition and direction was given to Education Officer to consider the factual aspect. There is order of Education Officer showing that both the sides were heard and relevant record was seen and compared by the Education Officer. The Education Officer formed opinion that there was difference in the signatures of Koli and the signatures appearing on receipts-cum-vouchers allegedly obtained from Koli in token of acknowledgment of receipt of the amount. In ordinary course, the payments are required to be made in bank account of the employee. But, the payments were shown to be made by cash. It appears that before the Education Officer, the institution of the present applicant had expressed willingness to make the payment, provided Koli was ready to give affidavit or some submission that he was giving up all the claims if he was paid honorarium amount which he was claiming before the Education Officer.

4. The learned counsel for applicant submitted that only due to the variance in the signatures of Koli and the signatures appearing on the vouchers, it cannot be inferred that the offence of forgery was committed and the amount of Koli was misappropriated. Today, the learned counsel for applicant made another submission before this Court that the applicant was holding the post of Treasurer only and she had no role to play in the matter. On the other hand, the learned APP submitted that the applicant has been working as Chairman of the institution and she is also Chairman of the School Committee and she cannot deny her liability.

5. There are many instances in which Courts have noticed creation of such record without making payment of honorarium or salary. Such record is prepared and the employees keep on working with the hope that one day, they will get the regular post. They are required to approach police or court only when they realised that they are deceived. The learned counsel submitted that Koli approached police only when he realised that he cannot get the post and so, this conduct of Koli needs to be kept in mind. Such circumstance cannot be considered against Koli. Further, there is other circumstance against the institution that institution had expressed willingness

before the Education Officer to make the payment, though some condition was put by the education institution. These circumstances are sufficient to make out prima facie case that false record of payment of honorarium was made and the amount was not actually paid to Koli. The persons working in the institution and running institution need to realise that such conduct cannot be tolerated and lenient view will not be taken by the Court in such cases. The circumstance that the applicant is lady also cannot be considered in favour of applicant as the persons, who are running the institutions are taking such steps to see that ultimately nothing happens. As on record the applicant is shown as office bearer of the education institution and in view of the change in circumstance, no lenient view can be taken in favour of the applicant. Due to aforesaid circumstances, this Court holds that no relief can be granted in favour of the applicant. Her custodial interrogation is necessary for effective investigation of the case. In the result, the application stands rejected. Other application filed for intervention is disposed of as allowed.

[T.V. NALAWADE, J.]

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