

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

CRIMINAL APPLICATION NO. 1890 OF 2017

1. Manoj S/o. Narayan Patil,
Age : 48 years, Occupation : Private Service,
R/o. Plot No. 29, Shejwalkar Nagar,
Bhadgaon Road, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.
 2. Nilesh S/o Kisan Jorvekar,
Age : 30 years, Occu. Student,
R/o. "Saidham", Sanjay Gruhnirman
Cooperative Society, Bhadgaon Road,
Chalisgaon, Dist. Jalgaon.
 3. Kisan S/o Yashwant Jorvekar,
Age : 65 years, Occu. Chief Editor,
R/o. "Saidham", Sanjay Gruhnirman
Cooperative Society, Bhadgaon Road,
Chalisgaon, Dist. Jalgaon.
- ... Applicants

VERSUS

1. The State of Maharashtra,
Through Principal Secretary,
Home Department,
Mantralaya, Mumbai-400 032.
2. The Superintendent of Police,
Jalgaon, Dist. Jalgaon.
3. The Officer In-charge,
Police Station, Chalisgaon,
District : Jalgaon.
4. Sheshrao S/o Ramrao Patil,
Age : 62 years, Occu. Agriculturist,
R/o. Kodgaon, Tq. Chalisgaon,
Dist. Jalgaon.

5. Jaywant S/o Hanumant Damgude,
Age : 48 years, Occu. Business,
R/o. Plot No. 12/G/6, Saisadan,
Shivaji Nagar, Govandi,
Mumbai – 433 343.

... Respondents
(Retd. No. 4 & 5
Org. complainants)

.....
Mr Pradip R. Patil, Advocate for the applicants
Mrs P. V. Diggikar, APP for respondent/State
Mr S. V. Gundre, Advocate for respondent No. 5
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CORAM : **S. S. SHINDE &
A. M. DHAVALA, JJ.**

RESERVED ON : 20.09.2017.
PRONOUNCED ON : 09.10.2017.

ORDER (PER A. M. DHAVALA, J.) :-

1. This is an application u/s 482 of Cr.PC. for quashing of FIR registered at C.R. No. 377/2013 against the applicants with Chalisgaon Police Station for offences punishable u/s 406, 420, 463, 465, 468, 469, 471 r/w 34 of the IPC, Sections 12, 13, 14, 15 & 19(k) of the Press & Registration of Books Act, 1867 and Rule 12 of the Registration & Newspaper Act, 1956.

2. Heard Mr P. R. Patil, learned counsel for the applicants, Mrs P. V. Diggikar, learned APP for respondent/State and Mr S. V. Undre, learned counsel for respondent No. 5.

3. According to the applicant, he was publishing a weekly newspaper 'Gramastha' from 11.06.1981, which was later on converted into 'Daily Newspaper' from 26.01.1983. The name 'Gramastha' was de-blocked by Press Registrar on 18.06.1983, which according to the applicant, was without intimation and without hearing him and hence, the publication continued even thereafter. On 30.08.2005, respondent No. 5 was given permission to run a newspaper by name 'Gramastha'. The communications of the applicant made to the Press Registrar from 2006 to 2013 were not considered. On 17.11.2013, FIR No. 375/2013 came to be lodged by respondent No. 4 - Sheshrao with Police Station Chalisgaon, on the ground that the newspaper 'Gramastha' was printed and published without renewal of license and the said newspaper was allotted to respondent No. 5 – Jaywant Damgude. In the said newspaper, all the three applicants were publishing from time to time defamatory news against the people and the government servant. The paper was being published without renewal of license since 18.06.1983 onwards. The accused made misrepresentation to the Government and the public so as to receive advertisements to make money and thereby cheated everybody. Accordingly, FIR No. 375/2013 was lodged against the applicants. Subsequent to this FIR, on the next day i.e. 18.11.2013, respondent No. 5 lodged FIR No.377/2013 against the same three

accused making same allegations. Subsequent FIR shows that, on 20.04.2007, the name 'Gramastha fortnightly' was registered in the name of informant-Jaywant. On 24.10.2013, he came to know that, the accused were publishing newspaper in the name of 'Gramastha'. It was alleged that, the respondents were evading several taxes & dues payable to the Government and misusing the name registered in favour of the informant. Hence, the crime came to be registered at Chalisgaon Police Station.

4. Learned advocate for the applicant–Shri. P. R. Patil has provided a chart showing that both the FIRs bearing No. 375/2013 & 377/2013 registered against the same accused for similar type of offence for the same period. No separate FIR could have been registered for the same offence once the FIR No.375/2013 was registered on the basis of the report of Sheshrao Patil.

5. After hearing learned advocate for the respective parties and going through the papers on record, we find that the material and substantial allegations against all the three accused in both the crimes are one and the same that they were running a newspaper by name 'Gramastha' without holding a license and in contravention of the

license granted to respondent No. 5–Jaywant Damgude. The FIR dt.17.11.2013 is mainly based on the fact that the newspaper was not only printed and published without holding any license but also contains the allegations that the name Gramastha registered in favour of respondent No. 5 – Jaywant Damgude is misused by the applicants. In the second FIR, the focus is on the misuse of the name of Gramastha registered in favour of respondent No. 5, but there is also reference to the fact that the said newspaper was printed and published without holding a valid license.

6. We find that, the accused have *prima facie* committed two offences firstly printing a newspaper 'Gramastha' without holding a license under the Press & Registration of Books Act and secondly; misusing the name of Gramastha registered in favour of respondent No.5. Both the acts are committed simultaneously and in the course of same transaction. In such case, there could have been only one FIR. There is no substance in the submission that, the allegations in the FIRs are different. Therefore the second FIR No 377/2015 on the basis of the same facts is not permissible as per the law laid in **T.T. Antony Versus State of Kerala & Ors. (2001) 6 SCC 181** wherein it is held “in the present case one and the same act gives rise to prove different offences under two different acts and even if it is assumed that those

are different acts, those are committed in the course of same transaction and, therefore, separate FIR, separate investigation and separate trial is not permissible". Hence, FIR No. 377/2013 deserves to be quashed.

7. However, as held in **Amitbhai Anilchandra Shah Versus Central Bureau of Investigation and another (2013) 6 SCC 348**, the investigation conducted in FIR at C.R. No. 377/2013 can be filed by the Investigating Officer in the charge-sheet filed in Crime No. 375/2013 as per Section 173(8) of Cr.P.C. With these observations, we are inclined to allow the application and quash the second FIR. Hence, the following order is passed.

ORDER

- (i) Criminal Application is allowed.
- (ii) FIR at C.R. No. 377/2013 registered against the applicants with Chalisgaon Police Station for offences punishable u/s 406, 420, 463, 465, 468, 469, 471 r/w 34 of the IPC, Sections 12, 13, 14, 15 & 19(k) of the Press & Registration of Books Act, 1867 and Rule 12 of the Registration & Newspaper Act, 1956, is quashed.

- (iii) As per prayer A of the application, FIR No. 377/2013 be treated as a statement under Section 162 of Cr.PC. in FIR No.375/2013.

[A. M. DHAVALA]
JUDGE

[S. S. SHINDE]
JUDGE

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