

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION 3389 OF 2017

Dr.Ashok S/o Nilappa Bolde
Age 54 years, Occ: Service
Gandhinagar Solapur
Tq. & Dist.Solapur

... APPLICANT

Versus

- 1] The State of Maharashtra,
Through In Charge Officer Town
Police Station Hingoli
Tq. & Dist.Hingoli

[Copy to be served on Public
Prosecutor, High Court Bench at
Aurangabad]

- 2] Sunil s/o Pandurang Jaitapurkar
Age 47 years, Occ-Service,
R/o. ACB office Hingoli,
Tq. & Dist.Hingoli

..Respondents

Mr.V.B.Patil h/f D.S.Mali, Advocate for applicant.
Mr. D.R. Kale, APP for Respondent No. 1.

**CORAM : S.S.SHINDE &
MANGESH S. PATIL, JJ.**

RESERVED ON : 27/11/ 2017.

JUDGMENT (PER MANGESH S. PATIL,J.) :

Rule. Rule is made returnable forthwith. Application is heard finally with the consent of parties.

2] This is an application under Section 482 of Cr.P.C. The applicant is seeking to quash Crime No.351/16 registered with Hingoli City Police Station, for the offence punishable under Section 13(2) read with Section 13(1) (d) (ii) of the Prevention of Corruption Act, 1988.

3] The FIR is lodged by respondent no.2 who is the Assistant Commissioner of Police appointed in the office of Anti Corruption Bureau, Hingoli. The applicant is a Medical Superintendent posted at Hingoli. The sum and substance of the allegations in the FIR are to the effect that one Shri Mazhar M. Shaikh and Shri Shaikh Naim Sk.Lal lodged complaint with the office of the ACB on the basis of which the Superintendent of Police, ACB, Nanded directed respondent no.2 to hold an inquiry. As a result of the inquiry, it was revealed *inter alia* that while the applicant was holding the post of Civil Surgeon in the District Civil Hospital, Hingoli, on 2/4/2012 and 23/4/2012. He was provided with an official vehicle bearing No.MH-13-Q-153. The applicant went to Solapur for attending a Court summons and used official vehicle provided to him but simultaneously, claimed reimbursement showing that he had travelled by State Transport. Thus he has wrongfully claimed such reimbursement. It is also alleged that he has similarly claimed reimbursement falsely on several occasions by misusing his public office. At times, he falsely claimed reimbursement without even going to Solapur. Thus, he has derived financial gain to himself to the tune of Rs.1,71,315/- by misusing his public office and thereby he has committed the offence mentioned hereinabove.

4] We have heard the learned advocate for the applicant and the learned APP. We have perused the papers of investigation.

5] The learned advocate for the applicant submitted that the averments in the complaint clearly show that it has been initiated at the instance of some disgruntled persons. The office or the treasury had not raised any objection for over payment or a false claim having been lodged by him. There has been no previous sanction for lodging the prosecution and therefore, applying principles in the case of State of Haryana V/s Bhajanlal; AIR 1992 S.C. 604 when the FIR has been lodged *mala fide*, it deserves to be quashed.

6] The learned APP vehemently opposed the application.

7] In our view, it would be hazardous to budge to the request of the applicant. Bearing in mind the fact that the applicant is holding high office and is highly educated person, the allegations in the FIR clearly make out a case which needs investigation as well as trial. Inspite of being a Class-I officer and a doctor, the applicant is alleged to have lodged false claims and has derived financial gain by misusing his powers. Considering the investigation carried out by respondent no.2 uptill now, in our view, this is not a fit case to invoke the powers of this Court to quash the proceedings.

8] So far as the sanction is concerned, already the respondent no.2 has moved the competent authority for sanction and it would not be appropriate to not to wait for sanction to be received. Hence we find no substance in the application which is liable to be rejected since it is not covered by any of the categories laid down in Bhajanlal's case.

9] The application is therefore, rejected. Rule is discharged.

(MANGESH S. PATIL,J.)

(S.S.SHINDE,J.)