

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

CRIMINAL APPLICATION NO. 4905 OF 2017

1. Sanjay Hiranman Pawar
Age: 47 years, Occu.: Govt. Service,
R/o 12, Sanghma Chowk, Tuljainagar,
Golibar Tekadi Road, Dhule.
2. Vijay Hiranman Pawar
Age: 44 years, Occu.: Labourer,
R/o 60, Yashwantnagar, Near Marimata Temple,
Sakri Road, Dhule, Dist. Dhule.
3. Bhushan Nutan Ahire
Age: 24 years, Occu.: Education and Business,
R/o 17, Suraj Colony, Sakri Road,
Dhule.

..APPLICANTS

VERSUS

1. State of Maharashtra
Through Superintendent of Police,
Dhule.
2. The Police Inspector,
West Deopur Police Station,
Dhule.

..RESPONDENTS

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Mr. M.M. Sonawane, Advocate for applicants.
Mr. A.S. Shinde, A.P.P. for respondents.
Mr. Joydeep Chatterji, Assist to P.P.

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**CORAM : V.L. ACHLIYA, J.
DATED : 09th OCTOBER, 2017**

ORDER :

1. The applicants are apprehending arrest in offence registered under Sections 387, 504, 506 read with Section 34 of the Indian Penal Code vide C.R. No. 81 of 2017 with Deopur West Police Station, Dhule.

2. Heard the learned Counsel for the applicants and the learned A.P.P. for respondents.

3. It is the contention of the learned Counsel for the applicant that the complaint filed by the complainant is a false and frivolous and made with an ulterior motive to harass the applicants. It is submitted that Applicant No.1 had filed complaint against the informant – Mahendra Vispute and others alleging cheating, misappropriation, forgery, fabrication, etc. Since the Police Inspector, Deopur West Police Station and the Superintendent of Police, Dhule failed to take action as contemplated under Section 154 of the Code of Criminal Procedure, the applicant filed application under Section 156(3) of the Code of Criminal Procedure before the Court of Judicial Magistrate First Class, Dhule, which was registered as Miscellaneous Criminal Application No. 1364 of 2016. Pursuant to the order passed by the learned Judicial Magistrate First Class, Dhule in exercise of powers under Section 156(3) of the Code of Criminal Procedure, F.I.R. came to be registered under Sections 406,

408, 409, 420, 463, 464, 465, 467, 468, 471 and 120(B) of the Indian Penal Code vide C.R. No. 118 of 2016 on 02nd December, 2016 with Deopur West Police Station, Dhule against informant and ten other persons who are the office bearers of Adarsh Shikshan Prasarak Mandal, Dhule. It is further contended that the applicant no.1 also lodged complaint with the Department of Vocational Training seeking enquiry into affairs of the institution run by the informant and others. Pursuant to the complaint of the applicant, enquiry was conducted by Four Members Committee appointed to look into the affairs of the institution run by informant and it was recommended to cancel the recognition of the institution run by the informant. The said report was submitted few days prior to lodging of complaint by the informant. It is further contended that on 30th May, 2016, Applicant No.1 also filed complaint with Deopur West Police Station apprehending bodily harm and lodging of false complaint at the instance of the informant – Mahendra Vispute. In this background, the learned Counsel submits that the complaint lodged by the informant against the applicants alleging demand of Rs.50 lakhs by applicants is false and made with a view to harass and humiliate them on account of criminal case lodged at their instance as well as the enquiry conducted in the affairs of the institution run by informant.

4. On the other hand, the learned A.P.P. opposed the application with contentions that there are four eye witnesses to the incident and the complainant has produced C.D. Wherein the complainant has claimed that conversation between him and Applicant Nos. 1 and 3 has been recorded. He submits that the said C.D. is required to be sent for the purpose of investigation and opinion of the expert.

5. In order to appreciate the submissions advanced, I have perused the F.I.R. lodged at the instance of Applicant No.1 and the report of Four Members Committee submitted by the Department of Vocational Training recommending cancellation of recognition of the institution. On due consideration of the submissions advanced, I am of the view that strong prima facie case is made out to entertain the application. In the facts and circumstances of the case and the submissions advanced supported with the documents placed on record, possibility cannot be ruled out that the applicant may be falsely implicated in the case. Applicant No.1 is claimed to be the Government servant, Applicant No.2 is a labourer and suffering from cancer and Applicant No.3 is claimed to be student. There is no criminal antecedent of the applicant. Looking to the nature of the offence, nothing is required to be seized in the matter. Investigation can be conducted without arrest of the applicants.

6. In this view, I am inclined to pass the following order :-

ORDER

(i) Application is allowed in terms of prayer clause (B).

(ii) In the event of arrest of the applicants in connection with the offence registered under Sections 387, 504, 506 read with Section 34 of the Indian Penal Code vide C.R. No. 81 of 2017 with Deopur West Police Station, Dhule, applicants be released on bail on each of them furnishing bail in the sum of Rs.15,000/- with one surety in like amount on condition that the applicants shall appear before the Investigating Officer on 12th October, 2017 at 11 a.m. and thereafter as and when directed by the Investigating Officer.

(iii) The Investigating Officer should ensure that the applicants be called at police station for the purpose of investigation, if required and they should not be unnecessarily called and made to sit in the police station.

(iv) It is clarified that the observations made as above are made for the limited purpose of deciding the present

application and same shall not be treated as observation made as to merit of the case and same shall not be used for any other purpose.

(v) Application stands disposed off accordingly.

(V. L. ACHLIYA, J.)

SSD