THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

**CRIMINAL WRIT PETITION NO. 217 OF 2014**

1. Shaikh Sagir Shaikh Nazir,
Age: 34 years, Occ: Service as Headmaster,
R/o Anjuman Urdu High School,
House No.139/1, Yusuf Colony,
Wangi Road, Parbhani.

2. Abdul Aziz Abdul Quadar,
Age: 28 years, Occ: Service
as Assistant Teacher,
Anjuman Urdu High School,
House No.139/1, Yusuf Colony,
Wangi Road, Parbhani. ... **PETITIONERS**

***V E R S U S***

1. The State of Maharashtra.

2. Mirza Ashraf Beg,
Age : 38 years,
R/o. Yusuf Colony, Parbhani,
Tq. & Dist. Parbhani. ... **RESPONDENTS**

*WITH*

**CRIMINAL WRIT PETITION NO. 225 OF 2014**

Anjum Parveen D/o Md. Taj.
Age: 25 years, Occ: Service
as Assistant Teacher,
R/o. Maqdoodmpura, Wangi Road,
Parbhani. ... **PETITIONER**

***V E R S U S***

1. The State of Maharashtra.

2. Mirza Ashraf Beg,
Age : 38 years,
R/o. Yusuf Colony, Parbhani,
Tq. & Dist. Parbhani. ... **RESPONDENTS**

...

Mr. Vikram R. Dhorde, Advocate for Petitioners, in both the petitions.

Mrs. D. S. Jape, APP for Respondent No.1 / State, in both the petitions.

Mr. M. V. Ghatge, Advocate for Respondent No.2, in both the petitions.

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CORAM : **T. V. NALAWADE &**
**SMT. VIBHA KANKANWADI, JJ.**

DATE : 19th November, 2018.

**JUDGMENT:** ( Per T. V. Nalawade, J. )

. Both the proceedings are filed for relief of quashing of FIR No.178 of 2013, registered with Nava Mondha Police Station, District Parbhani, for the offences punishable under Sections 420, 406, 409, 418, 465, 568 and 471 read with 34 of the Indian Penal Code. The FIR was given on 18th July, 2013 by Respondent No.2.

2 Both the sides are heard.

3 In the FIR, Respondent No.2 has mentioned his occupation as Headmaster of Anjuman Urdu Primary School, which is run by Ideal Education Society, Parbhani and which is situated near water storage tank, Yusuf Colony, Parbhani. It is contended that for the academic year 2008-09, proposal was made for grants by the school and this school was being run as per the permission given by the Government from the year 2000-01. It is contended that for the academic year 2009-10, present Petitioners, who are assistant teachers, by representing themselves as Headmaster (Shaikh Sagir) created false record for getting Government grant and then misappropriate it. It is contended that false representation was made by one of the Petitioner that he was Headmaster and proposal was made for getting grant, which the Government gives to the minority institutions.

4 Allegations are made that Accused, Taj Ibrahim is representing himself as President of the institution and Shaikh Nazir represented himself as Secretary of the institution. It is contended that the Education Officer probably joined hands with them and due to that grants were released. It is contended that false record was

created to show that grants were utilized for the purpose for which it was given by the Government.

5 It is the contention of the first informant that he was Headmaster and so the Petitioners had no authority to make such correspondence and to collect the grants. It is contended that they created record in respect of Anjum to show that she was Headmistress and false record of appointment of teachers was created and that way offences are committed by the Petitioners.

6 In view of the nature of allegations, this Court had made specific order to the Education Department and this Court had asked to ascertain as to whether the aforesaid amount of grant was really utilized for the purpose for which it was given by the Government. Today, report was submitted by the Education Officer to the effect that grant was properly utilized and the articles shown to be purchased in the record, were actually present in the school. Inquiry was also made with the shop keepers from where the articles and furniture are shown to be purchased.

7 There was a dispute and it was the contention of the first informant that at other place the school was shown to be opened and so action was also taken by the Education Department to see that the second school was closed. In view of these contentions, information was sought from the Education Officer and she submitted that the second school was closed immediately after the action taken by the Education Department and the aforesaid material and furniture was noticed at the place where the school is being run as per the permission given by the Government.

8 The submissions made show that there is a dispute over the Management of the institution. Though there is such dispute, the Court is expected to consider the factual aspect. Some account statements of the account of bank are there showing that there was some cash withdrawal. Though such irregularity is there, there is a record of purchase of furniture and other articles and the articles are actually present in the premises of the school. In view of these circumstances, this Court holds that it will be abuse of process of law if the case is filed against the Petitioners and they are made to face the trial for the aforesaid offences. In the result, the following order is

passed:

**O R D E R**

I. Both the petitions are allowed.

II. Relief is granted in both the petitions in terms of prayer clause (B).

III. The Education Officer and the Investigating Officer were present and they are discharged.

IV. Rule is made absolute in aforesaid terms.

**[ SMT. VIBHA KANKANWADI, J. ]** **[ T. V. NALAWADE, J. ]**

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