

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

CRIMINAL APPLICATION NO. 1177 OF 2014

Jitendra s/o Sadashivrao Kolte,
Age: 37 years, Occ: Service,
working as Gram Sevak,
R/o. Nandgaon Tanda, Tq. Kinwat,
Dist. Nanded.

... APPLICANT

VERSUS

1) The State of Maharashtra,
Through, P.I. Police Station,
Islapur, Tq. Kinwat, Dist. Nanded.

2) Mohan D/o Sawairam Jadhav,
Age: Major, Occu: Service,
R/o Nandgaon Tanda, Tq. Kinwat,
Dist. Nanded.

... RESPONDENTS

...
Mr. N. S. Jagdaale, h/f Mr. V. D. Salunke, Advocate for Applicant.
Mrs. D. S. Jape, APP for Respondent No.1 / State.
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CORAM : **T. V. NALAWADE &
K. L. WADANE, JJ.**

DATE : 23rd July, 2018.

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

. The proceeding is filed under Section 482 of the Code of
Criminal Procedure for relief of quashing of FIR No.49 of 2012,

registered with Islapur Police Station, Taluka Kinwat, District Nanded, for the offences punishable under Sections 406, 409, 417, 420, 467 and 471 read with 34 of the Indian Penal Code. The submissions made show that investigation is completed and charge-sheet came to be filed on 18th February, 2016. The present proceeding was filed on 20th February, 2014 and interim relief was granted in the year 2014. In view of these circumstances, the learned counsel for Applicant was allowed to argue for quashing of case itself.

2 The present Applicant was working as Gram Sevak of village Nandgaon at the relevant time. The work of Panand road of village Nandgaon was sanctioned by the Government under the scheme of Maharashtra Rural Employment Guarantee. The work order was issued on 17th March, 2012. Private complaint was filed by the Respondent in respect of said work for the aforesaid offences. In the private complaint, allegations are made that the present Applicant and others like Sarpanch, technical expert, some revenue officers and postman created false record of muster of labours and measurement, they showed attendance of labours on the work when those persons had not worked under the project and even when no work was

executed, false record of measurement book was prepared and the amount sanctioned for Panand is misappropriated by them. The Complainant, who is a member of village Panchayat had approached police, but when police did not take action, he filed private complaint and the order of investigation under Section 156(3) of the Code of Criminal Procedure was made.

3 The learned counsel for Applicant submitted that only to blackmail the Sarpanch and others, false allegations are made and such reports were given by Sarpanch and others against the Complainant. He drew attention of this Court to some correspondence allegedly made by some labours to show that they were demanding the charges in respect of labour work. On the other hand, the record of investigation shows that when the Panchanama was made on 20th December, 2012, no Panand road was found to be constructed at the place.

4 When such project is there, some experts of Zilla Parishad of technical side are there for preparing record of measurement. The learned counsel for Applicant submitted that the

concerned section has given report that most of the work was completed and such report was given even to police in the year 2013. Such record is there, but the allegations and the record show that the amount was already collected and false record of measurement was prepared of previous period. There are statements of some labours showing that their names were falsely shown in the muster roll when they were never called to do the work of this project and the amount was shown to be disbursed in their names though the amount was not paid to them. There is record to show that false accounts were opened in the post office in the names of those persons and amount was shown to be credited in those accounts and that amount was then shown to be withdrawn. For that, postman is made accused in the present matter. Allegations are there that there was no construction of Panand and the Panchanama is consistent with the allegations. There are affidavits of labours to the aforesaid effect. Some circumstances from which the inference of creation of false record can be drawn are mentioned in the police papers and those circumstances are like signatures were made on the dates when there was no appointment of the person from the technical wing.

5 Gram Sevak virtually works as Secretary of village Panchayat and unless he is involved in the matter, false record cannot be prepared and amount cannot be misappropriated. In view of these circumstances, this Court holds that it cannot be said that there is no material against the Applicant to make out aforesaid offences.

6 The learned counsel for Applicant placed reliance on the observations made by the Apex Court in two reported cases like **1997 AIR (SC) 4084 (Pepsi Foods Vs. Special Judicial Magistrate)** and **(2013) 10 Supreme Court Cases 705 (Anil Kumar and others Vs. A. K. Aiyappa and another)**. The facts of each and every case are always different. In the present matter, it was submitted that no reasoning is given in the order of investigation by the Judicial Magistrate First Class and due to that, the order is bad in law. This proposition is not acceptable. Specific allegations are made in the private complaint and there is record of aforesaid nature. In view of these circumstances, this Court holds that no relief can be granted to the Applicant. In the result, the following order is passed:

ORDER

- I. The application is dismissed.

II. Interim relief, if any, stands vacated.

III. Rule is discharged.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]

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