

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2410 OF 2007

Dipak s/o. Sadashiv Bangar,
Age 34 years, Occu. Service,
R/o. 7, Vakharkar Nagar, Dhule,
Taluka and District Dhule

....Applicant.

Versus

1. State of Maharashtra
2. Santosh Kishan Savkare,
Age 39 years, Occu. Service -
Development Officer,
R/o. Panchayat Samiti, Sakri,
District Dhule.

....Respondents.

Mr. Joydeep Chatterji, Advocate for applicant.

Mr. S.J. Salgare, APP for respondent No. 1/State.

Mr. D.S. Bagul, Advcate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.
DATED : JUNE 12, 2018.**

JUDGMENT : [PER T.V. NALAWADE, J.]

1) The proceeding is filed under section 482 of Criminal Procedure Code for quashing of F.I.R. No. 67/2007 registered in Sakri Police Station, District Dhule for the offences punishable under sections 420, 408, 409, 468 and 471 r/w. 34 of Indian Penal Code. Both the sides are heard.

2) The crime is registered on the basis of report given by public servant against the three persons like present applicant, Sarpanch of village Bhandne and Gramsevak of that village. There is allegation against them that in the year 2003-2004 false record of execution of work of levelling of agricultural fields of the villagers of that village was created by them and total amount of Rs.1.2 lakh was misappropriated by them.

3) The learned counsel for applicant submitted that applicant had measured the work, he had prepared measurement book and accordingly, he had issued the certificates in form No. 65 and he was not party to the misappropriation. He took this Court through the three xerox copies of form No. 65 prepared in respect of Suryawanshi, Keshav Thakre and Pandit Thakre. He also took this Court through the correspondence made by Block Development Officer (hereinafter referred to as 'BDO' for short) to show that the BDO had no suspicion against the present applicant and the BDO had given direction to report only against Sarpanch and Gramsevak of the village.

4) There is no force in the submissions made for the applicant. The record shows that complaint was made that three persons like Suryawanshi, Keshav Thakre and Pandit Thakre, who

were beneficiaries of the scheme were not benefited and the work of levelling of their agricultural land was not executed and the amount made available by the Government of Rs.1.2 lakh under the said scheme was misappropriated. Admittedly, at the relevant time, Prabhakar Patil was Sarpanch, Ravindra Patil was Gramsevak and present applicant was Sectional Engineer of Panchayat Samiti of Sakri. The papers of investigation show that statements of these persons and other persons were recorded and they categorically stated that their lands were not levelled and no amount was given to them for levelling the lands. Inquiry was made under the directions of Collector when the complaint was received and it was realised that actually the work was not done. Inquiry was made in the year 2005 and then a direction was given to give report in respect of the incident. It can be said that the BDO tried to protect the present applicant by informing police that in the year 2007, it was not possible to ascertain the work done and the measurement was not possible in the year 2007. He did not take care to go through the previous record of inquiry in which it was ascertained that the work itself was not executed. For such act of BDO, action can be taken against him also and it will be open to the investigating agency to take proper steps against the BDO, who made such correspondence with the police.

5) The misappropriation of public money becomes possible only when technical expert like present applicant joins hands with the persons who receive fund for execution of the work. Only after giving of the certificate by such technical person, the amount can be disbursed. Due to this circumstance, this Court holds that it cannot be said that present applicant had not played any role in the misappropriation. On the contrary, there is allegation against him that he created false record of measurement and he gave false certificates to enable the disbursement of the amount. Thus, no relief can be granted to the present applicant. In the result, the application stands dismissed. Interim relief is vacated. Rule is discharged.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]

ssc/