

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

CRIMINAL APPLICATION NO. 1308 OF 2018

1. Sk. Sharfoddin s/o. Sk. Fakroddin,  
Age 40 years, Occu. Professor,  
R/o. Mehboobnagar, Raut Nagar,  
Ambad, Dist. Jalna.
2. Mahesh s/o. Gopalrao Undegaonkar,  
Age 37 years, Occu. Professor,  
R/o. Tulja Bhavani Nagar,  
Jalna, Dist. Jalna.

**....Applicants.**

**Versus**

1. The State of Maharashtra  
Through Police Inspector,  
Police Station, Badnapur,  
Dist. Jalna.
2. Mehar Datta Pathrikar,  
Principal of Art's, Commerce &  
Science College, Badnapur.

**....Respondents.**

Mr. V.D. Salunke, Advocate for applicants.

Mr. M.M. Nerlikar, APP for respondent No. 1/State.

Mr. Rajendra Deshmukh, Advocate for respondent No. 2.

**CORAM :T.V. NALAWADE AND  
SMT. VIBHA KANKANWADI, JJ.  
DATED : 11/09/2018.**

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

- 1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.
- 2) The proceeding is filed for relief of quashing of F.I.R. No.

202/2017 registered with Badnapur Police Station for offences punishable under sections 420, 468, 471 and 34 of Indian Penal Code and the chargesheet filed in the said crime. The crime is registered on the basis of report given by respondent No. 2, who is Principal of Art's Commerce and Science College, Badnapur. The applicants are working there as teachers. Allegations are made in the first information report that even when applicant No. 2 was not Principal of this College, he issued a certificate in favour of applicant No. 1 to enable him to contest election of senate of University and for that false stamp, false letter head were used and thereby the offence is committed. It is contended that the charge of the post of Principal was with other person and not with applicant No. 2 Mahesh. When alleged incident took place on 6.11.2017, the F.I.R. came to be given on 21.11.2017.

3) The photostate copy of the certificate issued by applicant No. 2 in favour of applicant No. 1 is present in the police papers. It shows that it is in respect of the service which applicant No. 1 was rendering in the college since 27.1.2003. It is also in respect of the work of University which was done by applicant No. 1 since 27.1.2003. It is not disputed that applicant No. 1 has been working with this college since that date. It is also not disputed that such certificate was necessary as applicant No. 1 wanted to contest the election to senate and along with the nomination form, such

certificate was necessary as he was contesting from teacher's constituency.

4) It was submitted for the applicants that applicant No. 1 was working as Vice Principal of the college and he has signed as such on correspondence made by the college with University which was even in respect of affiliation. The submissions made show that applicant No. 1 and one Ganesh Gavande were signing on the correspondence of the college. It is also not disputed that at the relevant time, respondent No. 2 regular Principal, was on leave. By using this certificate applicant No. 1 contested the election to senate, but he was defeated. Respondent No. 2 had also filled nomination form. But, her nomination form itself was rejected during scrutiny.

5) The submissions made and the correspondence show that the college is under control of husband of respondent No. 2 and they were not happy due to decision of applicant No. 1 to contest the election. He probably contested the election from rival group. In any case, this action of applicant No. 1 of collecting certificate and contesting election to senate has not caused any loss to the college or to the first informant. Further, applicant No. 2 is admitting that he signed on the certificate, but he had mentioned that it was for Principal and he is putting his own signature and not the signature of

respondent No. 2, regular Principal. The photostate copy of the certificate supports that contention. It was routine certificate and it could have been issued by any authority of college. Further, the University would have also scrutinized the things and there was no question of rejecting the nomination on the ground that applicant No. 1 was not entitled to contest the election from teacher's constituency. In ordinary course, the college ought not to have taken such serious step. It can be said that only due to act of contesting the election by applicant No. 1 from the rival group such serious action is taken.

6) For registration of the crime and for filing the case for aforesaid offences, the ingredients of the offences need to be made out. For committing the offence of forgery, there needs to be dishonest or fraudulent intention. Considering the definitions of these terms given in IPC, it cannot be said that the document was prepared with such dishonest or fraudulent intention. Further, the document cannot be called as false or forged document. Thus, it is not possible to say that the offence of forgery was committed. Similarly, the ingredients of offence punishable under section 420 of IPC cannot be made out as nobody is deceived by making the representation which can be found in the certificate. Applicant No. 1 was really a teacher and so, there was no question of making false representation. It will be abuse of process of law if the case is

allowed to be filed against the applicants and they are made to face the trial for such offences. In the result, the application is allowed. Relief is granted to applicants in terms of prayer clause 'D-1'. Rule is made absolute in those terms.

**[SMT. VIBHA KANKANWADI, J.]**

**[T.V. NALAWADE, J.]**

SSC/

Salim  
Shafi  
Choudhari

Digitally  
signed by  
Salim Shafi  
Choudhari  
Date:  
2018.09.19  
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+0530