

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

CRIMINAL APPLICATION NO.3331 OF 2017

Kazi Anjar Mohibuddin s/o
Kazi Mojeebuddin
Age : 45 years, Occ: I/c Head Master,
R/o Rahemat Nagar, Nanded.

... Applicant

VERSUS

1. The State of Maharashtra,
through Police Station Itwara,
Nanded (Copy to be served on Public
Prosecutor, The High Court of
Judicature of Bombay Bench
at Aurangabad).
2. Shamim Sultana d/o Mehmood Ali Khan
Age 73 years, Occu. Rtd. Teacher
R/o. Umar Colony, Degloornaka,
Nanded Tq. & Dist. Nanded .

...Respondents

WITH

CRIMINAL APPLICATION NO.4950 OF 2017

Yasmeen Sultana d/o Mohammad
Fazlullah Khan
Age : 56 years, Occ: Govt. Service,
R/o Labour Colony, Nanded
Taluka & District Nanded.

... Applicant
(Orig. Accused No. 3)

VERSUS

1. The State of Maharashtra,
through Police Station Itwara,
Nanded (Copy to be served on Public
Prosecutor, The High Court of
Bombay Bench at Aurangabad).

2. Shamim Sultana d/o Mehmood Ali Khan
Age 73 years, Occu. Rtd. Teacher
R/o. Umar Colony, Degloornaka,
Nanded Tq. & Dist. Nanded .

...Non-Applicant
(Orig. Complainant)

...

Advocate for Applicants : Pathan Tahiwar Khan Wajeed
Khan

APP for respondent/State : Mr. S. B. Pulkundwar
Advocate for Respondent No. 2 : Mr. J. M. Murkute

**CORAM : T.V. NALAWADE &
K. L. WADANE, JJ.**

DATE : 20th June, 2018

JUDGMENT (PER K.L. WADANE, J)

1. Rule. Rule made returnable forthwith. With the consent of the parties, the application is taken up for final hearing.

2. The above two applications are submitted by the Headmaster and Ex-Head Mistress of the school belonging to the Zilla Parishad, Nanded, housed in the premises of the complainant. The complainant namely Shamim Sultana d/o Mehmood Ali Khan lodged the first

information report against the applicants alleging that they have prepared a false and fabricated document and purported to be signed by the complainant and submitted to the Headmaster, Zilla Parishad Primary School, Rahemat Nagar, Nanded thereby, informed that the complainant is not willing to continue the lease agreement with the school authority or Zilla Parishad. According to the complainant, the said letter is fabricated by the present applicants in order to vacate the premises though the agreement between the complainant and the Zilla Parishad was for 20 years. So by creating a false document the school was shifted to another premises, therefore, huge loss is caused to the complainant. We have perused the copy of the alleged fabricated document i.e. letter and it is purported to be signed by complainant-landlord.

3. On perusal of the entire record, it appears that the present applicants are not the beneficiaries, therefore, apparently it is seen that there was no reason for them to create a fabricated document. They are merely the employees of the school. They have nothing to do with the lease agreement. Therefore, definitely they are not the beneficiaries due to which it cannot be inferred that they have some reason to

fabricate some document. On perusal of the report of the investigating officer, it appears that there was no evidence to show that there was wrongful gain to the present applicants and wrongful loss to the complainant. It is submitted at present school is running in the premises of the complainant and she is getting rent from Zilla Parishad as agreed between the parties. Considering the over all circumstances of the case, we are of the opinion that there was no reason for the present applicants to fabricate any document since they are not beneficiaries. In view of the above, there is no evidence on record to show that the present applicants have fabricated any document.

4. In view of the above, both the applications are allowed and the relief is granted in terms of prayer clause (B).

(K. L. WADANE, J.)

(T.V. NALAWADE, J.)

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