

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

Criminal Application No.4394 of 2008

* Shaikh Noor Mohammad Najiroddin,
Age 37 years, Occupation : Service,
R/o Pathri, Taluka Pathri,
District Parbhani. **.. Applicant.**

Versus

- 1) The State of Maharashtra,
Through Pathri Police Station,
Pathri, District Parbhani.
- 2) Shantaling s/o Ashroba Kale,
Age 30 years, Occupation: Service,
R/o C/o Shankarrao Chavan
Vidyalaya, Pathri, Taluka Pathri,
District Parbhani. **.. Respondents.**

Shri. Santosh S. Jadhavar, Advocate, for applicant.

Ms. V.S. Choudhari, Additional Public Prosecutor, for
respondent No.1.

Shri. Mahesh Kale, Advocate, holding for Shri. B.A.
Shinde, Advocate, for respondent No.2.

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

Date: 27 JULY 2018

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

- 1) The proceeding is filed under section 482 of the
Code of Criminal Procedure for the relief of quashing of

F.I.R.No.109/2008 registered with Pathri Police Station, District Parbhani for offence punishable under section 420/34 of Indian Penal Code. Both the sides are heard.

2) The crime is registered on the basis of report given by headmaster of one school from Pathri. It is his contention that on 18-9-2008 the teaching staff informed him that Education Development Officer was to visit the school for collecting some information so he went to the school. It is his contention that he noticed that one Shaikh Sir and one unknown person aged about 45 years were present there and the person was introduced by Shaikh Sir as Education Development Officer, Palmate. They were there to see the record of some students and they were having record of some student like Shivam Jadhav in respect of eligibility to play game as student of junior college/school. The school furnished information that this boy was there in the past and school leaving certificate was issued to him. It is contended by the first informant that thereafter one Bharat Dhanle, a sports teacher met him and after the talk with Dhanle, the headmaster was informed that Palmate was not the Education

Development Officer and he was Sports Teacher in other Tahsil. So, the first informant felt deceived and after that he gave report for the aforesaid offences.

3) The submissions made and the record show that in a sports event of Kabbadi which was held at Latur, allegations were made against the students of Sanjivani Junior College, Chapoli by Mahatma Gandhi Vidyalaya Ahmedpur that Sanjivani Junior College had own the game and allegations made by Mahatma Gandhi Vidyalaya were that some students of Sanjivani Junior College were not eligible to participate in the game as they were probably admitted in the said college only in that year and they were not the regular students of Sanjivani Junior College. After receipt of this complaint from Mahatma Gandhi Vidyalaya by Deputy Director of Sports, Latur enquiry was ordered by the Deputy Director and direction was given to the present applicant to make inquiry. As there is copy of said letter bearing outward number of the office of the Deputy Director, the learned Additional Public Prosecutor was asked to ascertain as to whether the present applicant was directed to make such inquiry. Today, a

statement was made by the learned Additional Public Prosecutor that there was such direction given to the present applicant by the Deputy Director of Latur Division. A copy of the entry made in the outward register came to be produced.

4) The aforesaid circumstances and the record show that present applicant was directed to make the inquiry in respect of the allegations made by Mahatma Gandhi Vidyalaya Ahmedpur. Thus, he had visited the school of the first informant for making inquiry and there was no question of cheating by him to anybody. This Court holds that it will be abuse of process of law if the applicant is made to face the trial for the aforesaid offences. In the result, the application is allowed. Relief is granted in terms of prayer clauses (B) and (B-1). Rule is made absolute in those terms.

Sd/-
(K.L. WADANE, J.)

Sd/-
(T.V. NALAWADE, J.)

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