

Criminal Application No.6674 of 2014

Versus

- 1) The State of Maharashtra,
Through Police Inspector,
Police Station, City Chowk,
Aurangabad,
District Aurangabad.
 - 2) Nagnath s/o Shankarappa Kode,
Age 53 years,
Occupation: Service as
Senior Police Inspector,
Police Station City Chowk,
Aurangabad,
District Aurangabad.
- .. Respondents.**

Shri. S.S. Thombre, Advocate, for applicant.

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

Respondent No.2 - served - absent.

**Coram: T.V. NALAWADE &
Smt. VIBHA KANKANWADI, JJ.**

Date: 23 AUGUST 2018

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

1) The application is filed under section 482 of the Code of Criminal Procedure for the relief of quashing of F.I.R.No.II-3063/2014 registered with City Chowk Police Station Aurangabad for offences punishable under sections 188, 171(B) read with 34 Indian Penal Code and sections 123, 127(A) of the Representation of Peoples Act, 1950. Heard both the sides.

2) The crime is registered on the basis of report given by Senior Police Inspector of City Chowk Police Station. There was specific information to police that on 24-9-2014 that in 107-Aurangabad Legislative Assembly Constituency some persons were distributing money to the voters. There was code of conduct as the elections were declared. He took his staff and he went to the spot described by the informer. He noticed that four persons like, Shaikh Afroz, Shaikh Amir, Mohammad Aseq and Shaikh Ismail were present there and they were having some election material like pamphlets having the name of the present applicant, who was the City President of a

political party - Rashtrawadi Congress. They were having some packets and each packet contained some cash amount and these four persons informed that they were there to distribute money and some articles to the voters to influence them. These articles were taken over and all the persons were taken in custody. F.I.R. was given.

3) The papers of investigation show that there is record like seizure panchanama, F.I.R. and statements of some police officers. It can be said that the four persons were taken in custody and they were having the material of aforesaid nature with them. Total cash amount of Rs.6750/- of currency notes of different denominations was found with the four persons. It can be said that these four persons will not be giving evidence against the present applicant as they are accused and whatever was disclosed by them as per police cannot be used against them and also against the present applicant.

4) Police did not make inquiry with the persons living in that locality and no person will be from there as witness who could have stated that offer was given to

them. Police could have taken search of some houses if there was reliable information that money and other material were really distributed and some incriminating material could have been recovered from the houses. There is no such material in the papers of the investigation. The crime was registered in September 2014 and police were allowed to go on with the investigation. Thus, there is no material on the basis of which finger can be pointed out to the present applicant about the aforesaid incident. It was submitted that the applicant had not even filed nomination form on that date. Such circumstance cannot be considered in the case like present one. As there is no material to make out any case against the present applicant this Court holds that it will be abuse of process of law if the applicant is asked to face the trial for the aforesaid offences. In the result, the application is allowed. Relief is granted in terms of prayer clause (B). Rule made absolute in those terms.

Sd/-
**(Smt. VIBHA KANKANWADI, J.) Sd/-
(T.V. NALAWADE, J.)**

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