

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 4917 OF 2010

1. Balmukund Shikshan Prasarak Mandal
Devangra (President) Kisanrao Narayan
Narwade, Age 70 Years, Occu. Agril.,
R/o Devangra, Taluka Chakur,
District Latur.
2. Balmukund Shikshan Prasarak Mandal
(Secretary), Tukaram Krishnaji Parve,
Age 65 years, Occu. Agril.,
R/o. Devangra, Taluka Chakur,
District Latur.
3. Sant Tukaram Vidyalaya Devangra
(Mead Master) Dattatraya Tukaram Parve,
Age 40 Years, Occu. Service,
R/o. Devangra, Taluka Chakur,
District Latur.
4. Kishor Vyankatrao Dadhe,
Assistant Teacher, Sant Tukaram
Vidyalaya Devangra, Age 27 Years,
Occu. Service, R/o. Devangra,
Taluka Chakur, District Latur.

... APPLICANTS

VERSUS

1. Jalindarnath Trimbak Waghmare,
Age 38 Years, Occ. Nil,
R/o. Devangra, Taluka Chakur,
District Latur.
2. The State of Maharashtra,
Through Police Station, Chakur,
District Latur.

... RESPONDENTS

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Mr. Sachin S. Deshmukh, Advocate for Applicants.

Mr. Vinykumar V. Temke, Advocate for Respondent No.1.

Mrs. P. V. Diggikar, APP for Respondent No.2 / State.

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WITH

CRIMINAL APPLICATION NO. 2573 OF 2011

IN

CRIMINAL APPLICATION NO. 4917 OF 2010

Jalindarnath S/o. Trimbak Waghmare,
Age 38 Years, Occ. Nil,
R/o. Devangra, Tq. Chakur Dist. Latur.

... APPLICANT

VERSUS

1. The State of Maharashtra,
Through Police Station, Chakur,
Dist. Latur.
2. Balmukund Shikshan Prasarak Mandal
Devangra (President) Kisanrao Narayan
Narwade, Age 70 Yrs, Occu. Agri.,
R/o Devangra, Tq. Chakur, Dist. Latur.
3. Balmukund Shikshan Prasarak Mandal
Devangra (Secretary), Tukaram Krishnaji Parve,
Age 65 Yrs, Occu. Agri.,
R/o. Devangra, Tq. Chakur, Dist. Latur.
4. Sant Tukaram Vidyalaya, Devangra
(Mead Master) Dattatraya Tukaram Parve,
Age 40 Yrs, Occu. Service,
R/o. Devangra, Tq. Chakur, Dist. Latur.
5. Kishor Vyankatrao Dadhe,
Assistant Teacher, Sant Tukaram
Vidyalaya Devangra, Age 27 Yrs,
Occu. Service, R/o. Devangra,
Tq. Chakur, Dist. Latur.

... RESPONDENTS

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Mr. Vinykumar V. Temke, Advocate for Applicant.

Mrs. P. V. Diggikar, APP for Respondent No.1 / State.

Mr. Sachin S. Deshmukh, Advocate for Respondent Nos.2 to 5.

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

DATE : 18th July, 2018.

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

. The proceeding is filed under Section 482 of the Code of Criminal Procedure for relief of quashing of the proceeding bearing Miscellaneous Application No.55 of 2010, pending before the Court of Judicial Magistrate First Class, Chakur, District Latur and also order made of investigation by the Judicial Magistrate First Class and the crime registered on the basis of that order for the offences punishable under Sections 420, 385, 34 etc. of the Indian Penal Code.

2 Both the sides are heard.

3 The submissions made and the record show that Respondent Jalindarnath was working as a teacher in the school of Balmukund Shikshan Prasarak Mandal and the name of the school is

Sant Tukaram Vidyalaya, Devangra. Accused No.1 is the President of the Managing Committee, Accused No.2 is the Secretary, Accused No.3 is the Headmaster and Accused No.4 is working as assistant teacher in the said school. Contentions are made that the Complainant worked in this school from 1993 to 1996. It is contented that at the time of giving appointment to the Complainant, his signatures were obtained on four blank papers and these papers were subsequently misused to show that he resigned from the post on 15th June, 1996. It is contented that the contents of resignation letter were written by the Accused persons and by using this paper, he was removed from the service. The complaint was filed on 18th September, 2010.

4 The submissions made and the record show that the Complainant had filed proceeding like Appeal No.56 of 1999 before the School Tribunal and in the said proceeding, he had made similar contentions to get the relief of order of reinstatement. Though the proceeding was considered as proceeding filed for condonation of delay caused in filing appeal, relevant facts were considered by the School Tribunal and aforesaid contentions of the Complainant were

not accepted. This order was challenged in this Court by the Complainant by filing Writ Petition No.653 of 2000. This Court dismissed the petition on 10th September, 2001. Thus, when it is the case of Complainant that false record was created to the effect that the resignation was given by him in the year 1996, he approached the School Tribunal in the year 1999 and he failed to substantiate his case. The Complainant has admitted that the so-called resignation letter bears his signature. This circumstance cannot be ignored. In view of these circumstances, this Court holds that it will be abuse of process of law if the Applicants are made to face the consequences of the order and they are required to face the trial if police file charge-sheet. On this point, reliance was placed by the learned counsel for Applicants on the observations made by the Apex Court in the case reported as **(2010) 8 Supreme Court Cases 775 (Kishan Singh (dead) Through LRs. Vs. Gurpal Singh and others)**. The Apex Court has observed that when there is dispute of civil nature and there is decision of Civil Court in respect of that dispute, that decision can be considered as one of the circumstance in the proceeding filed for quashing of FIR. The Apex Court has observed that the circumstance that there was inordinate delay in filing FIR and that FIR was filed

after losing the matter in Civil Court, can be used to infer that the allegations, action was not *bonafide* and it amounts to abuse of process of law. On that ground, the judgment of the High Court was left undisturbed by the Apex Court in the said matter. In the present matter also, similar circumstance are there and the relevant facts are already mentioned. In the result, the following order is passed:

ORDER

- I. Criminal Application No.4917 of 2010 is allowed.
- II. Relief is granted in terms of prayer clause (B).
- III. Criminal Application No.2573 of 2011 is disposed of.
- IV. Rule made absolute in aforesaid terms.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]

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