

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

Criminal Application No.6135 of 2015

* S. Sukhvindersingh s/o Bakshisingh
Hundal,
Age 35 years, Occupation : Business,
R/o Sindhi Colony, Nanded,
District Nanded. **.. Applicant.**

Versus

1) The State of Maharashtra.

2) Deepsingh s/o Shankarsingh
Gadiwale, Age 32 years,
Occupation: Business,
R/o Bhagatsingh Road,
Badpura, Nanded. **.. Respondents.**

Shri. Pratap P. Mandlik, Advocate, for applicants.

Mrs. V.S. Choudhary, Additional Public Prosecutor, for
respondent No.1.

Shri. P.P. Dawalkar, Advocate, for respondent No.2.

Shri. M.S. Bhosle, Advocate, appointed by Court.

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

Date: 04 JULY 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 under section 482 of the Code of Criminal Procedure for quashing of F.I.R. No. 131/2015 registered with Itwara Police Station Nanded for offences punishable under sections 420, 467, 468, 471 etc. of the Indian Penal Code. Report is given by respondent No.2 and the report shows that there is dispute over the control, possession in respect of Shop No.18 which is a rented premises. It is the contention of respondent No.2 that he is the President of a charitable institution namely "Nanded Zilla Motor Malak Sangh, Nanded" and the institution is registered in the year 1980. It is contended that Municipal Council has given Shop No.18 to this institution on rent basis and this institution has been paying taxes and rent in respect of this shop. It is contended that when the term of the old body expired, change report was filed before the Assistant Charity Commissioner. It is contended that in the mean time shop No.6 situated at other place was allotted by the local body in stead of shop No.18 to this institution. It is contended that present applicant is not a member of the aforesaid Sangh but he is posing himself as President of "Nanded Zilla Motor Malak Sanghatana" and he has created some

false record. It is his contention that when the applicant registered an institution as "Nanded Zilla Motor Malak Sanghatana", he gave the address of this institution as Shop No.18 to the office of the Assistant Charity Commissioner in the year 2002. It is contended that by making false representation and by creating false record the present applicant is collecting donations and he is trying to grab the shop premises which belongs to the institution which is under control of the first informant.

3) Initially, present respondent No.2 had filed proceeding before the Chief judicial Magistrate Nanded and the Judicial Magistrate First Class Nanded made order to police to make investigation as per provision of section 156(3) of the Cr.P.C. and then crime came to be registered. The order was made on 20-10-2015. There is record showing that before making the order by the learned Magistrate, some inquiry was made by police and information was collected from the office of the Assistant Charity Commissioner. The police found that two change reports were pending and inquiry was going on in respect of the change reports.

4) It is not disputed that both institutions are registered though aforesaid two different names are probably given to the institutions. The grievance of the first informant is that the address of the institution of the applicant is shown as Shop No.18 which is allotted to the institution of the first informant and further the applicant is collecting donations in the name of the institution. For collecting donations, the institution needs to be registered and further permission of the Assistant Charity Commissioner needs to be obtained. Similarly, change reports are pending for inquiry before Assistant Charity Commissioner and the Assistant Charity Commissioner is in a position to decide as to whether false record is created or any false report is made. Only after the decision given by the Assistant Charity Commissioner anything can be said about the dispute. This Court cannot consider rival contentions and give opinion on it. It will be open to the first informant to take appropriate steps like filing of prosecution after the decision of Assistant Charity Commissioner. Further the Assistant Charity Commissioner can take action including giving direction to give report against the present applicant if he finds that

false record is prepared. On the basis aforesaid contentions, police is not expected to make inquiry as the matter needs to be decided by the learned Assistant Charity Commissioner.

5) In the result, the application is allowed. Relief is given in terms of prayer clause (B). Rule is made absolute in those terms.

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

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

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