

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.725/2017

Kishor s/o Laxmanrao Futane ..vs.. Pundlikrao s/o Deoraoji Ughade & ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. P. S. Tiwari, Advocate for applicant.

Mr. V. K. Paliwal, Advocate for non applicant nos. 1 and 2.

CORAM : V.M. DESHPANDE, J.

DATED : JANUARY 23, 2018

1. The applicant herein questions the order dated 25.04.2016 passed by learned Judicial Magistrate First Class, Wardha below Exh.-1 in Regular Criminal Case No.386/2015 whereby non applicant nos.1 and 2 are discharged of an offence punishable under Section 420, 468, 408 read with Section 34 of the Indian Penal Code together with judgment and order dated 14.03.2015 passed by the learned Sessions Judge, Wardha in Criminal Revision No.55/2016 dismissing the revision challenging the order of discharge.

2. Heard Mr. P. S. Tiwari, Advocate for applicant and Mr. V. K. Paliwal, Advocate for non applicant nos. 1 and 2. There is one Sansthan at Deori by name Shri Mirannath Maharaj Devsthan, Deoli, a trust registered under the provisions of the Maharashtra Public Trusts Act, having registration No. A-105(W). The applicant is secretary of the said trust. As per Schedule-I of the trust, the applicant-

complainant and accused nos. 1 and 2 i.e. non applicant nos. 1 and 2 are only serving trustees. According to the complainant, the accused persons started creating hurdles in the management and the administration of the trust in collusion with the temporary employees of the trust and started misappropriating the funds of the trust. It is further stated that the non applicant no.1 has filed a complaint before the Assistant Charity Commissioner, Wardha and direction was given by the Assistant Charity Commissioner, Wardha on 28.02.2014. A complaint was lodged by the accused against the present complainant before the Assistant Charity Commissioner, Wardha and the said complaint was registered as Inquiry No.139/2014 and on 28.02.2014, the order was passed. It is also to be noted that the present non applicants filed a writ petition before this Court vide Writ Petition No.1045/2016 challenging the order of the Assistant Charity Commissioner, Wardha dated 18.01.2016 thereby partly allowing the application filed on behalf of the applicant under Section 41-A of the Maharashtra Public Trusts Act thereby restraining the petitioner therein namely; non applicant nos.1 and 2 from posing themselves as Secretary and President of the trust. The Division Bench of this Court on 14.03.2016, allowed the writ petition and the impugned order of the Assistant Charity Commissioner, so far as it restrains the petitioners therein from acting as President and Secretary and signing the documents in that capacity was quashed and set aside.

3. In the backdrop of the Division Bench's decision, both the Courts below found that no offence is said to have been committed by the present non applicants. Both the Courts below found that there is no material to frame the charge against the accused persons. Both the Courts below found that the material as available on record do not show existence of any triable case against the non applicant. Therefore, they were discharged.

4. In my view, no exception can be taken to the well reasoned order passed by both the Courts below. The application is therefore rejected.

JUDGE