

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

**Criminal Writ Petition No.657 of 2018
With
Criminal Application No.1139 of 2019
In
Criminal Writ Petition No.657 of 2018
With
Criminal Writ Petition No.659 of 2018
With
Criminal Application No.1138 of 2019
In
Criminal Writ Petition No.659 of 2018**

* Rajeev Bhanudas Chaudhari,
Age 51 years,
Occupation : Business,
R/o Plot No.204, Chandrama
Apartment, Piyush Colony,
Bhusawal, Taluka Bhusawal,
District Jalgaon. **.. Petitioner.**

Versus

- 1) The State of Maharashtra
Through Secretary,
Ministry of Home Department,
Mantralaya, Mumbai.
- 2) The District Superintendent of Police,
Jalgaon, DSP Office,
Opposite ST Bus Stand Jalgaon.
- 3) Manish Ganesh Bhat,
Age 28 years,
Occupation: Computer Consultant,
R/o Plot No.15, Dena Nagar Ring
Road, Bhusawal,
Taluka Bhusawal,
District Jalgaon. **.. Respondents.**

Shri. M.M. Bhokarikar, Advocate, for petitioner in both the petitions.

Shri. S.J. Salgare, Additional Public Prosecutor, for respondent Nos.1 and 2.

Shri. Ajinkya Reddy, Advocate, for respondent No.3 in both the petitions.

**Coram: T.V. NALAWADE &
MANGESH S PATIL, JJ.**

Date: 26 MARCH 2019.

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

1) Rule, Rule made returnable forthwith. By consent heard both the sides for final disposal.

2) The first petition is filed for quashing of F.I.R. No.32/2016 registered with Bhusawal City Police Station, District Jalgaon and quashing of R.C.C. No.392 of 2016 filed in the said crime and which is pending in the Court of the Judicial Magistrate, First Class, Bhusawal. The second proceeding is filed for the relief of quashing of F.I.R. No.95/2017 registered with Faijpur Police Station, District Jalgaon. In this crime initially charge sheet was not filed. In both the crimes offences punishable under sections

420,465,468,470,471,34 of the Indian Penal Code are involved and it can be said that section 120-B of Indian Penal Code can also be used by the Court in view of the nature of allegations made against the accused persons, the present petitioners.

3) The petitioner from the first proceeding namely Rajeev Bhanudas Chaudhari is the father of Swaraj Chaudhari. One Pradip Patil, Principal of J.T. Mahajan Polytechnic, Faijpur is also shown as accused in CR No.95/2017.

4) There are allegations against Rajeev Chaudhari that even when his income is not below the creamy layer limit he created false record including the record of non-creamy layer certificate and by using that certificate, Swaraj obtained admission for First Year Diploma in Civil Engineering Course from reserved category. It was centralized process. After receipt of the complaint, direction was given to the concerned department by the Government to make inquiry. The inquiry revealed that by using bar-code of Setu Suvidha Kendra, the office issuing

such certificates, false non creamy layer certificate was prepared by the father of Swaraj and for that even the stamps of concerned office like that of Tahsildar were prepared. In the first F.I.R. only the father was shown as accused.

5) Direction was given to the college to see that admission is cancelled but he was admitted in the second year of the diploma course and for that necessary certificates like leaving certificate were issued by the college of Pradip Patil, the Principal.

6) The aforesaid circumstances show that there was virtually no case on merits to the petitioner from both the matters. The first crime was registered for preparation of the false certificate and the second crime was registered due to the aforesaid circumstances. In the first crime charge-sheet is filed. The second crime is registered as false certificate was used by Swaraj and the college had helped him for using the certificate. Even after giving direction by the Government department, necessary steps like cancellation of admission given to

the course itself were not taken but he was admitted to the second year. Learned counsel for the petitioner submitted that the student paid the fees of open category candidate though subsequently. This submission is not acceptable as the admission itself could not have been given to Swaraj in view of the cut-off marks which was declared in the centralized process.

7) Alternatively learned counsel for the petitioner submitted that only due to creation of the false certificates the second crime came to be registered and so in ordinary course police could have filed one charge-sheet in respect of creation of false certificate and also in respect of use of false certificate. He placed reliance on the observations made by the Apex Court in the case reported as **AIR 2013 SC 3794 (Amit Shah v. C.B.I.)** and the observations made by this Court in the case reported as **2017 (3) BomCR (Cri) 750 (Kashinath Kutwal v. The State of Maharashtra & Others)**. In the first case in view of the facts of that case, the Apex Court had held that it was desirable to file supplementary charge-sheet instead of filing separate charge-sheet in respect of another crime registered and

accordingly direction was given. The Bombay High Court in the case of **Kashinath** (cited supra), however, had quashed the second F.I.R. itself.

8) In the present case it cannot be said that registration of the second crime was illegal in view of the facts of the present matter. However in view of nature of evidence which is required to be given in the second case it can be said that it is desirable that supplementary charge-sheet can be filed in CR No.32/2016 in respect of the second crime. Only to that extent the relief can be given. The charge-sheet, which appears to have been filed, as photocopy of it is produced by the learned counsel for the petitioners along with Criminal Application No.1138 of 2019, needs to be treated as supplementary charge-sheet in the first case and all the accused need to be tried together. So, the following order.

9) Criminal Writ Petition No.657 of 2018 is dismissed. Rule is discharged. The charge-sheet filed in the second crime as against Swaraj and others needs to be treated as supplementary charge sheet filed in the first

case and only to that extent relief is granted in Criminal Writ Petition No.659 of 2018. Rule is made partly absolute in these terms. Pending applications are disposed of.

Sd/-
(MANGESH S PATIL, J.)

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

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