

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

CRIMINAL APPLICATION NO. 2400 OF 2019

1. Pralhad Narhari Kale,
Age: 41 Yrs., Occ : Service,
R/o House No.49, Near Maroti Mandir,
Shikshak Colony, Sillod, Dist. Aurangabad.

2. Alka @ Alaknanda W/o Pralhad Kale,
Age: 36 Yrs., Occ : Service,
R/o D-3, Rathi Sansar, Pisadevi Road,
Jadhavwadi, Aurangabad.

... **APPLICANTS**

VERSUS

1. The State of Maharashtra,
Through the Police Station Officer,
CIDCO, Aurangabad.

2. Smt. Sunita Baburao Jadhav,
Age : 46 Yrs., Occ : Nil,
R/o Flat No.21, Yamuna Apartment,
Near Thatte Haud, Begumpura,
Aurangabad.

... **RESPONDENTS**

...
Mr. Ajay S. Deshpande, Advocate for Applicants.

Mrs. V. S. Choudhari, APP for Respondent No.1 / State.

Mrs. R. R. Mane, Advocate for Respondent No.2 (Appointed)

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CORAM : **T. V. NALAWADE &
S. M. GAVHANE, JJ.**

DATE : 11th December, 2019.

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

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

2 The present proceeding is filed for relief of quashing of proceeding of R.C.C. No.587 of 2019 and the case is filed for the offences punishable under Sections 452, 380, 504 and 506 read with 34 of the Indian Penal Code. The case is presently pending in the Court of learned Judicial Magistrate First Class, Aurangabad and it is filed in Crime No.463 of 2018, which was given by Respondent No.2, Smt. Sunita Jadhav.

3 In the FIR, allegations are made against the Applicants that on 26th October, 2018, the Applicants entered the school where the informant was working as Headmistress and by saying that the management of the school was handed over to them, they asked the informant to handover the record of the school. She has contended that she refused to hand over the record to them and when she went for some work outside of the office, behind her back, the entire record and registers were taken over by the present Applicants and they left the office. In the FIR, she described the record like outward register,

attendance register of the teaching staff etc.

4 Both the sides have produced some record and the record shows that the management of the school was transferred by the Government and to that effect Government Resolution was issued by the State Government on 8th August, 2018. Affidavit is filed by one Limbraj Jadhav, the person who was in control of the school in the past that after the aforesaid Government Resolution, the record was handed over by him to the new management, to the Applicants between 11th August, 2018 and 24th August, 2018. He has further contended that the informant of the present matter was transferred from this school with effect from 15th April, 2017 and this transfer was approved by the Education Officer on 18th June, 2018 i.e. prior to the date of FIR. Today, the order of the Deputy Director of Education, Aurangabad Division, Aurangabad, came to be produced. It shows that the transfer of the school is now finally approved subject to some usual conditions. The record contains one order was made by the authority in the past, which is to the effect that the record was handed over by the previous management to the new management and as the process was not completed, the new management was asked to return the record back to the previous management. This circumstance also shows that the record was handover by the

previous management to the new management and it was not stolen as alleged by Respondent No.2 in the present matter. It appears that Respondent No.2 has some dispute with regard to her service conditions. Probably due to that dispute such FIR was given by her. It will be abuse of process of law if the Applicants are made to face the trial for the aforesaid offences. In the result, the following order is passed:

ORDER

- I. The application is allowed.
- II. Relief is granted in terms of prayer clause (B).
- III. The fees of the appointed counsel is quantified as Rs.5,000/- and it is to be paid through the High Court Legal Services Sub-Committee, Aurangabad.
- IV. Rule is made absolute in those terms.

[S. M. GAVHANE, J.]

[T. V. NALAWADE, J.]

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