

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

**CRIMINAL WRIT PETITION NO. 1648 OF 2018.**

Soma Bhila Borse, Age 52 years,  
Occ. Government Service,  
(Under suspension), R/o. Chandiram  
Bajaj Nagar, Navin Malegaon Road,  
Chalisgaon, Tq. Chalisgaon, Dist.  
Jalgaon.

...      **Petitioner.**

VERSUS.

1. Bhima Sambhajirao Narke,  
Economic Offices Wing,  
Through in charge  
Commissioner Office, Nagpur,  
Civil Line, Administrative  
Building No. 1, Nagpur, Dist.  
Nagpur.
2. Vijay @ Balasaheb Chhagaonrao  
Jadhav, Age 51 years, Occ. Service,  
Police Constable Buckle No. 1674,  
Division Jalgaon, Presently working  
in the office of Superintendent of  
Police, Jalgaon, Dist. Jalgaon.
3. Shamkant Jagannath Patil,  
Age 50 years, Occ. Service,  
Police Constable, Anti-Corruption  
Division, Jalgaon, Dist. Jalgaon.
4. Arun Vithal Patil, Age 45 years,  
Occ. Service, Police Constable,  
Anti-Corruption Division,  
Jalgaon, Dist. Jalgaon.
5. The State of Maharashtra,  
Through : Principal Secretary,  
Home Department, Mantralaya,  
Mumbai-32.

6. Superintendent of Police,  
A.C.B. Nashik Range, Sharanpur  
Road, Near Tibetan Market,  
Nashik, Dist. Nashik.

7. Director General, Anti-Corruption  
Bureau, Maharashtra State,  
Sirpoch Khanwala Marg, Worli,  
Mumbai, 30.

... **Respondents.**

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Mr. K.C. Sant, Advocate for petitioner.  
Mr. S.B. Joshi, APP for the respondents No. 5 to 7.

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

**DATE : 09.04.2019**

**ORAL JUDGMENT (PER T.V. NALAWADE, J):**

1. Rule. Rule is made returnable forthwith. By consent heard both the sides for final disposal. There is no need to issue notice to the proposed accused person in the F.I.R. as direction is claimed against the respondents No. 5 to 7.

2. In the petition direction is claimed against the respondents to see that action is taken against the respondents No. 1 to 4 under the Prevention of Corruption Act. The submissions made show that there is record like demand of Rs. 3 lakh made by respondent No. 2 Vijay Jadhav. When he had talked with the first informant that conversation was recorded. Even when there is such material it is surprising that only departmental action was taken against respondent No. 2 Vijay Jadhav. In reply affidavit it is

contended that though there is such conversation there is no other material like the verification panchnama in respect of the demand. There is no provision in the Prevention of Corruption Act providing for verification panchnama and these days the verification panchnamas are creating a scope for leakage of the complaint made against public servant and that needs to be kept in mind. The material available is at least sufficient to make out the case for registration of crime for offence punishable under section 7 of the Prevention of Corruption Act against the respondent No. 2 Vijay Jadhav. If the crime was registered immediately as against respondent No. 2 and he was put under arrest, more material could have been collected by the respondents but that is not done and that may have helped other accused. In any case honest attempt needs to be made as there are the allegations against the officers of Anti-Corruption Bureau when they are expected to take action to prevent corruption.

3. Only departmental action is not sufficient against such persons and crime needs to be registered. In view of the case reported as **2014 (2) SCC 1 Lalita Kumari Vs. State of U.P.** This Court holds that the crime needs to be registered for offence punishable under section 7 of the Prevention of Corruption Act and if other material is available under other offences also. After registration of the crime it will be open to the investigating agency to ascertain as to who else was involved in the matter and accordingly this Court expects action against them also.

4. The submissions made show that learned Special Judge has rejected the application filed for making investigation of the Crime under Section 156(3) of the Code of Criminal Procedure since the departmental action was taken. That order is considered by this Court and that order does not come in the way of registration of the Crime. So the following order.

ORDER

1. Writ Petition is allowed.
2. Direction is given to respondents No. 5 to 7 to see that the crime is registered on the basis of report given by the present petitioner and investigation is made honestly in the matter.
5. Rule is made absolute in those terms.

(MANGESH S. PATIL, J.)

(T.V. NALAWADE, J.)

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