

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 750 OF 2020

Lalit s/o. Walmik Thakre .. Petitioner
Versus
The State of Maharashtra and another .. Respondents
...
Mr. S. C. Yeramwar, Advocate for Petitioner
Mr. K. D. Mundhe, Assistant Public Prosecutor for Respondent No.1
...

**CORAM : T. V. NALAWADE AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 24th NOVEMBER, 2020

ORDER :

Petition is filed for relief of quashing of First Information Report (FIR) No. 368 of 2019 registered with Bajar Peth Police Station, Bhusawal, Taluka Bhusawal, District Jalgaon, for the offences punishable under Sections 7 and 12 of the Prevention of Corruption Act, 1988 (for short "Act of 1988").

2. Both the sides are heard.

3. The crime is registered on the basis of report given by one Mr. Jaykumar Manohar Sasane. His daughter had passed 12th Standard examination and also Common Entrance Test (CET) and she wanted to get an admission in Shri. Sant Gadgebaba Engineering College, Bhusawal and for that she had filled form. She belongs to backward class and so his daughter was entitled to get concession in fees. For that, it was necessary to file caste validity certificate.

4. On 24-06-2019, the informant Mr. Jaykumar Sasane went to Head Office of the College and there clerk – Mr. Temani of the College said that it was necessary to file caste validity certificate immediately,

otherwise, the entire fees should be deposited. The informant said that he had already applied for getting caste validity certificate and he showed the receipt in respect of filing the application with Caste Scrutiny Committee. After seeing the receipt in respect of filing of application, Mr. Temani said that Caste Scrutiny Committee will not give certificate immediately and for expediting the things, the informant needs to spend money. Mr. Temani said that an amount of Rs.40,000/- needs to be given to him and also amount needs to be given to other persons like Mr. Kirange and Mr. Thakre. Present petitioner – Mr. Thakre was working as clerk with concerned Caste Scrutiny Committee. The meeting between the informant and Mr. Temani took place on 27-06-2019, when he demanded the amount of Rs. 40,000/- and informed that such amount was to be given to Mr. Kirange and Mr. Thakre, who were to do necessary things for getting validity certificate. The informant approached to Anti Corruption Bureau ("ACB") on 03-07-2020 and gave complaint by mentioning all the three names.

5. The ACB first decided to do verification and so the informant was sent to Mr. Temani with pancha witnesses. It was confirmed that there was demand of Rs.40,000/-from Mr. Temani. The conversation between Mr. Temani and the informant was recorded in voice recorder and on the basis of that recording it was confirmed that there was demand.

6. On the same day, the informant supplied amount of Rs.40,000/-. Anthracene powder was applied to the currency notes and with these notes, the informant approached to Mr. Temani. One panch witness was in the company of informant. In presence of panch witness, Mr. Temani accepted tainted money and then Officers of ACB rushed

forwarded, they held Mr. Temani and tainted money was recovered from him. Panchnama of recovery was prepared.

7. Mr. Temani informed that he had already given Rs.13,000/- to Mr. Kirange. Mr. Kirange was taken in custody and he informed that he had given amount of Rs.7000/- to Mr. Thakre, out the amount of Rs. 13,000/-. Mr. Thakre was also taken in custody. Mr. Temani had sent photocopy, screen shot of receipt to Mr. Kirange.

8. When investigation was made, it transpired that Mr. Temani was in touch with present petitioner Mr. Thakre and he had sent a photocopy of the receipt of application. Mr. Thakre had sent copy of certificate which was shown to be issued on 01-07-2019 on mobile to Mr Kirange. The investigation revealed that the copy of certificate was collected by Mr. Thakre from office and he had handed over it to Mr. Kirange. The papers of investigation contain this record which is in the form of screen shot. The record shows that both Mr. Kirange and Mr. Thakre were not known to the informant. In ordinary course, office of Caste Scrutiny Committee would not have handover the caste validity certificate to person like Mr. Kirange and the certificate would have been handed over to the informant. The record shows that Mr. Thakre collected the certificate from the office, when that was not expected from him. Further, he handed over the certificate to Mr. Kirange. This record shows that Mr. Kirange and Mr. Thakre were involved in the matter, though the amount was actually received by accused No. 1- Mr. Temani.

9. Learned counsel for the petitioner submitted that if work was already done then it cannot be said that for doing that work, the amount was accepted. He submitted that it is not probable that before doing

work, Mr. Temani had given amount to Mr. Kirange and Mr. Thakre. This submission is not acceptable. What kind of *modus operandi* will be used by corrupt persons cannot be imagined. It is clear that for expediting issuance of caste validity certificate, the demand was made and that demand was prior to the issuance of such certificate and before collecting the tainted money. The certificate was collected by Mr. Thakre. The statements of the persons from the office of Mr. Thakre are there.

10. Learned counsel for the petitioner submitted that material is not sufficient to make out the offence under Section 7 of the Act of 1988. In the present matter, Mr. Thakre was working with Caste Scrutiny Committee and he was involved in handing over of the certificate, though not in taking decision to issue caste validity certificate. Further, Section 13(1) of the Act of 1988 shows that when a public servant accepts the money by misusing position in the way in which he had accepted money, then it can be said that offence is committed under Section 13 of the Act of 1988. Actual acceptance of money need not be proved in such cases. It is open to the court to draw inference on the basis of circumstances mentioned above. Further, there is provision of Section 12 in the Act of 1988 and it shows that such person who are not working in that office can act as middle man and can abet the commission of offence under Prevention of Corruption Act. Due to these circumstances, it cannot be said that there is no material against the present petitioner. This Court holds that relief cannot be given to the petitioner. In the result, Criminal Writ Petition stands dismissed.

Sd/-

[**SHRIKANT D. KULKARNI**]
JUDGE

MTK

Sd/-

[**T. V. NALAWADE**]
JUDGE