

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

CRIMINAL APPLICATION NO.1861 OF 2020

SANTOSH NARAYANRAO PODHADE
VERSUS
STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Ambar S. Barlota.
APP for Respondent/State: Mr. A. V. Deshmukh.
...

CORAM : T. V. NALAWADE &
M. G. SEWLIKAR, JJ.

DATE : 20th October, 2020.

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

. The proceeding is filed for relief of quashing of FIR bearing Crime No.201 of 2020, registered with Shiur Police Station, District Aurangabad, for the offences punishable under Sections 420 and 427 of the Indian Penal Code.

2 Heard the learned counsel for Applicant as he insisted that interim relief will be granted. He was asked to make out a case for notice.

3 The present Applicant was employed as a contractor by Distribution Company of Electricity of this State. Crime is registered on

the basis of report given by the Assistant Engineer Ravindra More on 6th July, 2020. The work was given to the Applicant to see that connections were given to persons, who had applied for electricity connection and who were there in wait list. For that work, it was necessary to take link from high voltage lines and erect three-phase system for giving connections.

4 The present Applicant had informed the employer, Electricity Company on 8th November, 2019 that the work of giving connection to 40 customers for water pump was completed and even meters were fixed for those connections. He had given list of 40 customers to whom connections were given. There was name of one Kashinath Samrut, owner of land Gat No.118, village Nimgaon showing that connection was given to him also. As there was information that the work was completed prior to 8th November, 2019, in the visit dated 3rd July, 2020, when the Deputy Chief Engineer and others went to the field of Kashinath, Gat No.118, they noticed that the work was not completed. They noticed that three poles for laying high voltage lines were fixed at comparative long distance from the standard distance. They noticed that the lines were not taken on these poles and Rohitra/Transformer was not fixed. It was noticed that Rohitra/Transformer was not in good condition, which was lying on the ground. It was noticed that when connection was not given, there was no line, there

was no meter, false information was given that such work, was done and by causing damage to Rohitra/Transformer, loss of Rs.84,900/- was caused to the electricity company. On the basis of this report, crime came to be registered for the offences punishable under Sections 420 and 427 of the Indian Penal Code.

5 The learned counsel for Petitioner submitted that it is not open to the officers of the distribution company of electricity to say that work was not completed as there are certificates with him with regard to measurement of the work and there are bills with him to show that after relevant date bill was issued to customer, Kashinath. The bill produced on record is dated 27th May, 2020. Some photographs are produced to show that meter was installed and on polls there was line.

6 Some times it happens that the contractor joins hands with some officers of the employer and gets certificates from them. On the basis of those certificates, the contractor is able to get the bill of the work mentioned in measurement book. Thus, the presence of such certificates of joint measurement cannot help the Petitioner. When officer of the level of Chief Engineer has noticed on 3rd July, 2020 that work was not actually completed, the allegations needs to be considered as it is at present and the defence cannot be considered. Thus, by making false representation, bill was collected by the

Petitioner and that material is sufficient to make out *prima-facie* case for the offence of cheating and also creation of false record. Thus, it is not a fit case even for issuing notice. The application stands rejected.

ndm

[M. G. SEWLIKAR, J.]

[T. V. NALAWADE, J.]