

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2504 OF 2018

Prakash Balkrushna Markad
age 36 years, occ. Govt. Contractor
r/o Dhakephal, Tq. Paithan
Dist. Aurangabad.

Applicant

Versus

1. The State of Maharashtra
2. Bhausahab Maruti Payghan
age 58 years, occ. Service
Taluka Agricultural Officer,
Paithan, Tq. Paithan,
Dist. Aurangabad

Respondents

Mr. P.S. Pawar, Advocate for the applicant.
Mr. K.S. Patil, APP for both respondents.

**CORAM : T.V. Nalawade &
M.G. Sewlikar, JJ.**

DATE : 12th March, 2020.

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

1. Rule. Rule made returnable forthwith.
2. By consent, heard both the sides for final disposal.
3. This proceeding is filed for relief of quashing of First

Information Report No. 245/2018 registered with Pachod Police Station for offence punishable under Section 420 of the Indian Penal Code.

4. The crime was registered on the basis of report given by respondent No. 2 – Agricultural Officer, Paithan. There is allegation that the present applicant to whom contract of construction of cement nala bandh was given, made construction of one band which was of inferior quality. As the construction was not as per the standard expected, an enquiry was made. After the enquiry, it was realised that it was sub-standard construction. The contractor came forward and showed readiness to make construction of new cement nala bandh in place of the old one which was of sub-standard quality.

5. Submissions made in the reply-affidavit show that accordingly, new construction was made and that was accepted by the department. In reply-affidavit condition No. 17 from the agreement is mentioned which is in respect of making correction in the construction and powers given to the employer to ask the contractor to executed the new work. It was submitted that by using condition No. 17, new work has been executed.

6. Learned counsel for the contractor – present applicant makes a statement that the contractor has not charged anything for the new construction. He submits that the bill which was paid earlier in respect of the previous work is the only amount accepted by the contractor and for new construction, he has not made any demand of money and in future also, he will not make any demand for the new construction work executed by him.

7. In view of this submission and the contention of the contractor, this Court holds that the First Information Report against the present applicant needs to be quashed and set aside. Relief is granted in terms of prayer clause 'B'. Rule made absolute in those terms.

(M. G. SEWLIKAR)
Judge

(T.V. NALAWADE)
Judge

dyb