

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO.590/2019

Prashant Marotirao Yeshal,
aged about 35 years, Occ. Business,
r/o Jairamsingh Plot, Hariharpeth,
Akola, Tq. Dist. Akola.

.....PETITIONER

...V E R S U S...

1. The State of Maharashtra through
its Secretary, Department of Home,
Mantralaya, Mumbai.
2. The Superintendent of Police,
Akola, Tq. Dist. Akola.
3. Police Inspector, Police Station
(Old City), Local Crime Branch,
Akola, Tq. Dist. Akola.

...RESPONDENTS

Mr. V. B. Bhise, Advocate for petitioner.
Mr. M. J. Khan, A.P.P. for respondents-State.

CORAM:- V. M. DESHPANDE &
ANIL S. KILOR, JJ.
DATE:- 18.12.2020

ORAL JUDGMENT (Per: V. M. Deshpande, J.)

1. Rule. Rule is made returnable forthwith. Heard finally
by consent of learned counsel for the parties.

2. A total frivolous petition is filed before this Court and it
appears that the purpose of filing such a writ petition is just to

prolong the matter and/or to create impediment in the progress of the criminal case. Initially, the writ petition was filed seeking directions against the respondent no.3 i.e. Police Inspector, Police Station (Old City), Local Crime Branch, Akola to make further investigation in Crime No.147/2015 against the real offenders. In the alternative, a prayer was made to transfer the investigation to the Central Bureau of Investigation.

3. Even prior to the issuance of notice, an application was moved for amendment to challenge charge-sheet. Copy of charge-sheet is placed on record. It shows that charge-sheet was filed on 07.10.2016 vide charge-sheet No.90/2016 in the Court of learned Chief Judicial Magistrate, Akola. The writ petition was filed on 19.07.2019. Thus, on the date when the writ petition was filed, that day, charge-sheet was already filed, in spite of that the petitioner only challenged the First Information Report.

4. Be that as it may. As per charge-sheet, the prosecution case is that police authorities received a secret information that the petitioner, who runs an eatables stall in front of Town School, Hariharpeth, is having one bag and in that counterfeit notes are

there. On getting the said information, the police authorities searched and that time it was noticed that the petitioner, who was having a bag, it was containing 54 notes of Rs.500/- denomination and 50 notes of 100 denomination and all those were fake and counterfeit notes. Immediately, in presence of panchas, those were seized. Panchanama was drawn. Statements of witnesses were also recorded. The petitioner was arrested. It is informed to this Court that subsequently the petitioner was released on bail.

5. After filing of charge-sheet, trial is pending from 2016. However, the learned counsel for the petitioner is unable to make any statement regarding framing of charge.

6. Be that as it may, along with writ petition, petitioner has filed two applications given by one Lakhan Gajanan Sathe and Gajanan Akaram Sathe to the Police Station Officer. In the said application, it is stated that one Sudhir Ramesh Mohokar called them and he told that he will produce "Besan" from the shop of one Pradip Pendke and thereafter the said bag containing Besan shall be kept near the eatable food cart. Accordingly, said was done by them and ultimately, in that counterfeit notes found.

According to the petitioner, thus, Sudhir Mohokar is real culprit and not the petitioner because at his behest, Lakhan and Gajanan kept the bag near the food cart of the petitioner.

7. It appears that the petitioner is creating defence for his trial. There is nothing before the Court regarding authenticity of the signatures on the applications given by Lakhan and Gajanan. It will always be open for the petitioner to examine them as a defence witness if he chooses to do so.

8. When prima facie evidence is there in the charge-sheet to show that petitioner was legally searched and from his possession counterfeit notes were seized, in our view, there is no merit in the present petition.

The writ petition is, therefore, dismissed. Rule is discharged.

JUDGE

JUDGE

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**Yogesh
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