

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

932 CRIMINAL APPLICATION NO.41 OF 2021

**MUKUND KASHINATH SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Advocate for Applicant : Mr. Irale Patil D.R.
APP for Respondents/State : Mrs. V.N. Patil Jadhav

...

**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.
DATE : 12.01.2021**

PC. :-

There is a office note and learned APP also pointed out to this Court that for similar relief in the past Criminal Application No.429 of 2015 was filed. That record was called in the present matter and the record shows that the said matter was withdrawn and liberty was claimed for filing application for discharge. Said liberty was given and the previous proceeding was disposed of as withdrawn by order dated 16.02.2015. When such order was passed in the past, for the same relief present proceeding is filed. The contents of the present application do not show that it is informed to this Court that in the past application no.429 of 2015 was filed and in that matter

order of aforesaid nature was passed. Thus, material information is concealed from this Court.

2. Learned counsel submitted that no information was given by his client about the previous proceeding. This Court has given hearing to learned counsel Shri Irale Patil on merits though there are aforesaid circumstances. The allegations made in the FIR are self-explanatory. It is not disputed that the present applicant was working as a Sectional Engineer at the relevant time. Work of nala bunding was sanctioned for gut no.80 of village Andhora and the value of the work was Rs.76,980/-. The amount which was sanctioned was collected as a cash amount and it was shown to be disbursed amongst the labour. The work was shown to be executed on record between 01.04.2005 and 05.04.2005. When it was necessary to prepare the record like muster roll, measurement book, no such record was made available. Thus even when there was no such record the amount was shown to be disbursed. Then for verification some officer paid a visit to the site and he noticed that no such work was actually executed. Thus, it was noticed that there was misappropriation of aforesaid amount by the present applicant who was Sectional Engineer at that site and was responsible for getting executed that work. In view of these circumstances, FIR came to be given and crime was

registered for offences punishable under Section 409, 467, 468 read with Section 34 of the I.P.C.

3. Learned counsel for the applicant submitted that though the crime was registered in the year 2011, the charge-sheet is not yet filed. If that is the case, it can be said that the officers are helping the present applicant in every way. Learned counsel submitted that the applicant is on the verge of retirement and this case may come in his way to get retirement benefits. Such submission cannot be accepted and used in such a serious case. If charge-sheet is not filed, this Court hopes and expects the concerned to take necessary action. In any case, in view of the nature of aforesaid allegations, it cannot be said that there is no material at all against the applicant. In respect of the FIR registered in the year 2011 the present matter came to be filed on 15.12.2020 and that circumstance also cannot be ignored by this Court. This Court holds that no relief can be granted on merits. Due to the circumstance already mentioned like not mentioning the previous proceeding, in the present matter this Court holds that cost of Rs.5,000/- needs to be imposed on the applicant. In the result the following order is passed:

ORDER

- I) The application stands dismissed.
- II) The applicant is to deposit cost of Rs.5,000/- in this Court in the present proceeding for the aforesaid reason and it needs to be credited to the Government.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]