

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

CRIMINAL APPLICATION NO. 1343 OF 2019

Ratnakala Martandrao Mohite ... Applicant

Versus

The State of Maharashtra
and another ... Respondents

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Mr. Sambhaji S. Tope, Advocate for the Applicant
Mr. G.O. Wattamwar, APP for Respondent No.1 / State
Mr. Uttam L. Talegaonkar, Advocate for Respondent no.2

AND

CRIMINAL WRIT PETITION NO. 402 OF 2020

Dr. Rekha W/o Gowardhan Gaikwad ... Petitioner

Versus

The State of Maharashtra
and others ... Respondents

....

Mr. V.D. Sapkal, Senior Advocate i/b Mr. S.R. Sapkal, Advocate for
the Petitioner
Mr. G.O. Wattamwar, APP for Respondents / State

AND

CRIMINAL APPLICATION NO. 1350 OF 2019

Dr. Swapnil S/o Vishnu Lale ... Applicant

Versus

The State of Maharashtra
and another ... Respondents

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Mr. Kuldip S. Kahalekar, Advocate h/f Mr. N.S. Ghanekar, Advocate
for the Applicant

Mr. G.O. Wattamwar, APP for Respondent No.1 / State

Mr. Uttam L. Talegaonkar, Advocate for Respondent no.2

AND

CRIMINAL APPLICATION NO. 1431 OF 2019

Govind S/o Pandit Chaudhary

... Applicant

Versus

The State of Maharashtra
and another

... Respondents

....

Mr. J.V. Deshpande, Advocate for the Applicant

Mr. G.O. Wattamwar, APP for Respondent No.1 / State

Mr. V.D. Sapkal, Senior Advocate for Respondent no.2

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**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 23rd AUGUST, 2021

PER COURT:-

1. Mr. V.D. Sapkal, learned Senior Counsel for the petitioner in writ petition no.402 of 2020 submits that the petitioner has filed this writ petition for directions against the investigating agency to complete the investigation and submit a report in connection with crime no.40 of 2019 registered with Vedant Nagar Police Station, Aurangabad.

2. Learned APP submits that Mr. Vivek Ramchandra Saraf, Assistant Commissioner of Police, Cantonment Division, Aurangabad has filed an affidavit-in-reply. In para 4, it is stated that “the Under Secretary of the Public Health Department after considering the entire relevant record placed before him, declined to grant sanction to prosecute three accused Health Officials. As all these three Health Officials are Class-I officers, it was placed before the Hon’ble Chief Minister, who being the competent authority to sanction to prosecute”. In para 5 of the said affidavit-in-reply, it is further contended that, “the Hon’ble Chief Minister after considering the above material placed before him took conscious decision not to grant sanction to prosecute these Class-I Health Officers”. Learned APP submits that a copy of the said decision is also annexed and marked as Exhibit “R-2”.

3. The learned Senior Counsel for the petitioner submits that at present the petitioner has not decided to challenge the said order. However, in future, the petitioner may challenge the said order.

4. Mr. Tope, learned counsel for the applicant / original accused no.2 in criminal application no. 1343 of 2019, Mr. Ghanekar, learned counsel for the applicant / original accused no.3 in criminal

application no.1350 of 2019 and Mr. J.V. Deshpande, learned counsel for the applicant / original accused no.1 in criminal application no.1431 of 2019, on instructions, seeks leave to withdraw all these applications in view of the affidavit-in-reply submitted by the State in criminal writ petition No.402 of 2020 as referred above with liberty to the applicants to file an applications for quashing, in the event, if the charge-sheet is submitted or otherwise.

5. Leave granted.

6. All the criminal applications are disposed of as withdrawn. The applicants in all the applications are at liberty to file an application for quashing of the criminal proceedings, in case, the order passed by the Under Secretary, Health Department and the order passed by the Hon'ble Chief Minister of the State of Maharashtra is set aside and the charge-sheet is filed in consequence thereof or otherwise.

7. Further, the writ petition no. 402 of 2020 is also disposed of since there is no question to give any direction for filing the charge-sheet as the Under Secretary of Health Department, so also the Hon'ble Chief Minister has refused to grant sanction in terms of the provisions of Section 197 of the Code of Criminal Procedure.

8. The criminal applications and the writ petition is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

[V. K. JADHAV]
JUDGE

S.P. Rane