

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

CRIMINAL APPLICATION NO.1397 OF 2021

SADIYA NAHEED W/O. MIRZA AZIZULLAH BAIG
AND OTHERS

APPLICANTS

V E R S U S

ANIS KHAN DILAWAR KHAN

RESPONDENT

...
Advocate for Applicants : Mr. S. S. Kazi
APP for Respondent: Mr. H.M. Shaikh
...

CORAM : N.R. BORKAR, J.

DATE : 20.10.2021

ORDER :-

By this Criminal Application, a prayer is made to *quash* Regular Criminal Case No. 602 of 2012, pending on the file of the learned Judicial Magistrate (F.C.), Aurangabad.

2. The contention is that the above mentioned complaint case is filed in respect of the Public Trust more particularly change report between the parties. It is submitted that since the issue of change report is pending before the Charity Commissioner, the Criminal Court has no jurisdiction to decide the said issue.

3. The learned counsel for the applicants submits similar version is taken by the Hon'ble Supreme Court in the case of ***Tukaram Annaba Chavan and another Vs. Machindra Yeshwant Patil***, reported in ***2001 CRI. L.J. 1164*** by this Court in ***Criminal Application No. 2969 of 2013 Mohammad Khaja Moinuddin S/o Vaziruddin Vs. Ahemad Mohiyuddin alias Ahemad Hakam S/o Vajiruddin and another.***

4. It is submitted in view of above the proceedings filed by the respondent are nothing but abuse of the Court process.

5. Admittedly, the complaint case is of the year 2009. The present application is filed in the year 2021 i.e. after 12 years of filing of the said complaint case. It appears that, one interlocutory order was challenged before this court and at that time contention in relation to maintainability of the complaint case in question was not raised. Just because there is no period of limitation to file the application under Section 482 of the Code of Criminal Procedure, that does not mean that it can be entertained at any point of time. I am therefore, not inclined to entertain the present application

after 12 years of filing of the complaint case in question.
Application is, thus dismissed.

(N. R. BORKAR)
JUDGE

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