

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

956 CRIMINAL WRIT PETITION NO.1067 OF 2021

SHAIKH MOHAMMAD SHAIKH BABUMIYA
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr.B.N. Gadegaonkar, Advocate for the petitioner.
Mrs.G.L. Deshpande, APP for the respondent/State.
Mr.P.P. More h/f Mr.V.S. Panpatte, Advocate for
respondent No.2.

CORAM : N.R.BORKAR, J.

DATED : 18.11.2021

PC :-

01. This writ petition challenges order dated 13.07.2021 passed by the Adhoc Additional Sessions Judge-2, Kandhar.

02. Respondent No.2 herein filed an application under section 156(3) of the Cr.P.C. before the learned Magistrate, Mukhed. The learned Magistrate rejected the prayer of the respondent No.2 for investigation by police and the matter was then posted for verification. The order of learned Magistrate was challenged before the

revisional Court. Learned revisional Court allowed the revision petition and directed Mukhed Police Station to investigate into the matter. The order of revisional Court is impugned in the present petition.

03. I have heard learned Counsel for the petitioner, learned Counsel for the respondent No.1 and learned APP for the respondent/State.

04. Learned Counsel for the petitioner submits that after rejection of prayer for investigation the learned Magistrate took cognizance and issued summons to the present petitioner. It is submitted that in such circumstances, the learned revisional Court ought not to have entertained the revision petition, when the learned Magistrate had already taken cognizance of the matter. In support of submissions the learned Counsel for the petitioner has relied upon judgment in the case of **Rekha Vs. Ajay Ghanshyamdas Karwa and others,(2021) 2 Bom CR (Cri) 410.**

05. On the other hand, learned Counsel for the respondent No.1 submits that the petitioner has committed cheating and forgery. It is submitted that considering the nature of allegation, the revisional Court was thus justified in ordering investigation under section 156 (3) of Cr.P.C.

06. The respondent No.2 has alleged in his application under section 156(3) of the Cr.P.C. that the present petitioner was not even graduate at the time of his appointment as Assistant Teacher and by preparing false documents he got the appointment. It is further alleged that the proposal for approval of the petitioner's appointment was submitted to the Education Officer by forging the signature of Headmistress. It is alleged that the Headmistress has given statement to the police to that effect, still no action is taken in the matter. Considering the nature of allegations the revisional Court was justified in ordering investigation

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under section 156(3) of the Cr.P.C. No interference is called for in the order impugned. The petition is dismissed.

[N.R.BORKAR,J.]