

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

CRIMINAL APPLICATION (APL) NO. 346 OF 2019

Ajay Laxmanrao Sawarkar,
aged about 47 years, Occ. Labour,
R/o Kumbharwada, Opp. Asnare Mangal Karyalaya,
Amravati.

...APPLICANT

Versus

1. State of Maharashtra,
through its P.S.O. Police Station, Rajapeth,
Amravati.
2. Shailesh Manoharrao Wankhade,
aged about 47 years, Occ. Jt. Secretary,
R/o Shri Ekvira Devi Sansthan,
Amravati, District Amravati.

...NON-APPLICANTS

Shri N.V. Pradnyakar, Advocate h/f Shri N.B. Bargat, Advocate for
the applicant.
Shri S.M. Ghodeswar, A.P.P. for non-applicant No.1.
Shri A.S. Manohar, Advocate for non-applicant No.2.

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**CORAM : V. M. DESHPANDE &
PUSHPA V. GANEDIWALA, JJ.
DATED : OCTOBER 11, 2021.**

ORAL JUDGMENT : (PER : PUSHPA V. GANEDIWALA, J.)

Rule. Rule is made returnable forthwith. Heard
finally with the consent of learned counsel for both the parties.

2. By way of this application filed under Section 482 of the Code of Criminal Procedure, the applicant Ajay Laxmanrao Sawarkar is seeking quashment of First Information Report No.481/2016 dated 03/07/2016 registered at Police Station Rajapeth, District Amravati for the offence punishable under Sections 420, 468 and 471 of the Indian Penal Code.

3. We have perused the application, and the reply affidavits filed on behalf of the non-applicants.

4. The applicant was working as a 'Manager' of 'Ekvira Mangal Karyalaya' during the period between October, 2012 to August, 2015. It is alleged that some time in October, 2015, it came to the knowledge of the Society about the discrepancies in the account of 'Ekvira Mangal Karyalaya', run by the Society. The present applicant admitted his mistake in the said discrepancies, and promised to pay the amount misappropriated by him to the Society.

5. It is stated that a Committee came to be constituted to enquire into the misappropriation of funds done by the present applicant. During enquiry it was revealed that the present applicant had prepared a bogus receipt book and issued bogus receipts to the persons seeking to book 'Ekvira Mangal Karyalaya' for function. Initially, it was revealed that the present applicant issued at least 7 receipts for an amount of Rs.15,000/- each and thereby misappropriated an amount of Rs.1,05,000/-.

Later on, in audit, it was revealed that Rs.4,95,000/- have been misappropriated by the applicant, and therefore, F.I.R. came to be lodged by non-applicant No.2 against the present applicant for the aforesaid offence, wherein all the details about the act of misappropriation of the said amount has been given.

6. Shri Pradnyakar, learned counsel for the applicant, submits that there was a delay in lodging F.I.R. and that the same was lodged with a malafide intention on part of non-applicant No.2 to terminate the services of the applicant.

7. Per contra, Shri Ghodeswar, learned A.P.P., submits that there is an ample material against the present applicant to demonstrate that a cognizable offence has been committed by him.

8. We have considered the rival submissions put forth on behalf of both the sides.

9. At the outset, a perusal of the application, F.I.R. and the reply affidavits, filed on behalf of the non-applicants, we are convinced that *prima-facie*, the contents in the F.I.R. made out the case for commission of cognizable offence under Sections 420, 468 and 471 of the Indian Penal Code against the present applicant, as alleged. At this stage, it is difficult to accept the contention about delay in lodging the F.I.R. and the malafide intention on the part of the Society. In our firm opinion, the

applicant has failed to demonstrate as to how the continuation of criminal proceedings against him would be an abuse of process of law. We are not inclined to exercise discretion in favour of the applicant.

10. In this view of the matter, we are of the opinion that no case for quashing of F.I.R. is made out, and therefore, the application deserves to be dismissed, and the same is accordingly dismissed. Rule is discharged.

JUDGE

JUDGE

Sumit