

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

CRIMINAL WRIT PETITION NO. 411/2019

PETITIONER : Mr. Avinash Sudhakar Rao Gajbe,
Age 37 years, Occupation - Private,
R/o. Plot No.3, Jugal Kishor Layout,
Gopal Nagar, Nagpur

...VERSUS...

RESPONDENTS:

1. State of Maharashtra, through Department of Home, Mantralaya, Mumbai.
2. Commissioner of Police,
Nagpur City, Nagpur.
3. Police Station Officer,
Police Station Pratap Nagar,
Nagpur.

Shri Rajnish Vyas, Advocate for petitioner
Ms. Hemlata Jaipurkar, APP for Respondents.

**CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**

DATE : 12/01/2021.

ORAL JUDGMENT (PER : SUNIL B. SHUKRE, J.)

.1] Heard the respective counsel for the parties.

2] Rule. Rule made returnable forthwith. Heard finally by consent of the learned Counsel for the parties.

3] The petitioner claims that he is a person who belongs to Gond-Gowari Tribe and has interest in the welfare of Adiwasi Gowari Samaj Association. According to him, there were several instances noticed by him, which revealed misappropriation of huge amount belonging to the Association committed by one Kailash Raut and Surendra Raut, the office bearers of the Association. Therefore, he filed the complaint with Police Station Rana Pratap Nagar, Nagpur, on 19.04.2019 for setting criminal law in motion against the said two persons, but in vain. Now, the petitioner has approached this Court seeking direction to the Commissioner of Police i.e. respondent No.2, to act upon the representation, which he sent on 21.04.2019 to the respondents whereby he has forwarded the complaint dated 19.04.2019. He has also sought criminal direction against the Police Officer of Police Station Rana Pratap Nagar, Nagpur.

4] Shri Vyas, the learned counsel for the petitioner submits that even though it is stated in the reply that audit was got conducted by the Society and the audit report has not revealed any irregularity or any kind of misappropriation, the petitioner would

need to verify the correctness of the audit and for that purpose, the petitioner would have to obtain the copy of the audit report. He submits that as the copy of the audit report has been supplied with the reply, it would have facilitated its such examination by the petitioner. But, he submits that the petitioner can very well do so in due course of time and if permitted by this Court, the petitioner would withdraw this petition with liberty to file afresh a complaint against office bearers or persons responsible for misappropriation of Association's funds, if any fresh material is collected by the petitioner.

5] According to the learned APP, no cognizable offence has been disclosed against the persons named in the complaint dated 19.04.2019 and therefore, this matter be dismissed.

6] We would have ordinarily granted permission to withdraw the petition with liberty as prayed for, had there been an effort taken by the petitioner before approaching this Court to collect necessary material and mention the relevant facts and circumstances in its complaint, so that some bonafides could be seen in the action of the petitioner in filing the criminal complaint and

also this petition. But, on perusal of the complaint dated 19.04.2019, it appears to us that the petitioner made general rather wild allegations against the persons named therein without giving necessary details to support those allegations. The petitioner by filing this petition made an attempt to seek roving enquiry through the process of law so that whatever purpose he desires to seek in this case is achieved. Now, as the audit of the accounts has been conducted by the association and it has also been examined by the Tribal Development Department, which discloses no irregularity and no misappropriation during the relevant period, no leave to withdraw the petition with liberty as prayed for can be granted. If it is granted, it would only encourage the persons like the petitioner to keep stoking the fire of litigation for achieving his own purpose, which is not known to us.

7] In the result, we do not find any substance in the petition and the petition deserves to be dismissed. The petition stands dismissed. Rule is discharged.

JUDGE

Rvjalit

JUDGE

**Rajesh
Jalit**
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by Rajesh Jalit
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