

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

CRIMINAL APPLICATION (ABA) NO. 512 OF 2021

Santosh Damodhar Vyas and anr.

..vs..

State of Maharashtra, thr. P.S.O.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri N.B. Bargat, Advocate for applicants.
Shri M.J. Khan, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.
DATED : 03/09/2021

Heard.

2. The applicant no.1/accused is serving as a Clerk in Municipal Council, Pandharkawda whilst applicant no.2/accused was retired from the post of Clerk from Municipal Council, Pandharkawda. It is alleged that both applicants at the instance of co-accused namely Nikesh Sidam, had issued a false and fabricated birth certificate, which was used by later in judicial proceeding.

3. To be specific, co-accused Nikesh Sidam was facing prosecution under POCSO Act, in which in order to establish that the then victim was not a child, has procured false birth certificate through applicants. It reveals that during trial before the Special Court, it was noticed that the birth certificate was not genuine,

therefore, enquiry was directed. The Chief Officer of Municipal Council Pandharkawda caused to hold enquiry in which responsibility was fixed on both the applicants for issuance of concerned birth certificate.

4. It is argued that applicants were holding several additional charges and therefore, the act of issuance of incorrect birth certificate is nothing, but, a negligent act. It reveals from the record that on 19.07.1996, the then victims' mother gave a birth to twin daughters, who later on died. It appears that by taking disadvantage of said entry, the birth certificate was issued showing that the victim-girl also born on 19.07.1996. It means that there was some sort of entry in the record of birth register i.e. 19.07.1996.

5. It appears that the prime accused is Nikesh Sidam has used said birth certificate. Both applicants were serving in the Municipal Council, out of which, applicant no.2 is retired. Already, tainted documents are seized by the Police. Considering this aspect, nothing is required to be seized at the instance of applicants. Both applicants are already facing Departmental Enquiry regarding alleged lapses or misdeeds. By protecting their liberty, they can be directed to joint course of investigation. Hence, the following order :

(a) The Criminal Application is allowed and disposed of.

(b) Ad-interim order of this Court dated 13.08.2021 is hereby made absolute on same terms and conditions with direction to continue to attend the concerned Police Station as directed earlier, till the filing of charge-sheet.

JUDGE

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