

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

CRIMINAL APPLICATION (APL) NO. 730 OF 2015

Pritisingh Gaurishankarsingh Baghele,
Aged : 48 years, Occu : Service,
R/o Durga Chawk, Tah and
District - Akola.

... **APPLICANT**

V E R S U S

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Gadchiroli,
Tah. and District-Gadchiroli.
2. Chhandak Govindrao Lokhande,
Aged about : 42, Occ. Assistant
Project Officer, Integrated
Tribal Development Project,
Gadchiroli, Tah. and
District-Gadchiroli.

... **NON-APPLICANTS**

Shri A. V. Band, Advocate for applicant.

Shri T.A. Mirza, Additional Public Prosecutor for non-applicant
No.1-State.

CORAM: Z.A. HAQ & AMIT B. BORKAR, JJ.
DATED : 05/03/2021.

ORAL JUDGMENT : (PER : AMIT B. BORKAR, J.)

1. Heard.
2. **Rule.** Rule made returnable forthwith.
3. By this application under Section 482 of the Code
of Criminal Procedure, the applicant has challenged registration of

First Information Report No.107/2014 dated 27/12/2014 registered with the non-applicant No.1 – Police Station for the offences punishable under Sections 420 and 409 of the Indian Penal Code.

4. The First Information Report came to be registered against the applicant with the accusations that the applicant along with other accused persons shown false enrolment of 209 students though the strength of 120 students was sanctioned and received scholarship of Rs.1,06,31,015/- and the said amount was not disbursed to the students and amount was misappropriated. It was alleged that the society namely; Shri Sairam Bahu-uddeshiya Gramin Vikas Sanstha, Sawli, District Chandrapur has cheated the Government by forwarding forged documents, certificates, application forms and caused loss of Rs.71,57,125/-. It is further stated that the applicant was appointed as Assistant Account Officer in Department of Integrated Tribal Development Project Office, Gadchiroli and he worked in the said office from 20/05/2008 till 06/01/2013.

5. The applicant has, therefore, challenged the registration of First Information Report by filing present application. This Court on 13/10/2015 issued notice and by way of ad-interim order, it was directed that the charge sheet shall not be filed against the applicant.

6. In pursuance of the notice issued by this Court, the non-applicant No.1 has filed reply stating that the applicant worked as Account Officer in the Department of Integrated Tribal Development Office, Gadchiroli from 20/05/2008 till 06/01/2013 and on the basis of report filed by the non-applicant No.2, First Information Report was registered against the accused persons. It is stated that during the course of investigation, it is revealed that the employee of Integrated Tribal Development Project, Gadchiroli has not carefully scrutinized and verified the documents submitted by the officials of Shri Sairam Bahu-uddeshiya Gramin Vikas Sanstha, Sawli, District - Chandrapur.

7. In Paragraph No. 5 of the reply, the non-applicant No.1 has stated that during the course of further investigation, it is revealed that the present applicant has not dealt with the record of the matter pertaining to aforesaid college and therefore, there is no material found against the applicant.

8. The applicant has filed additional affidavit dated 04/02/2019 annexing copy of bill sanctioned in favour of the said society. The applicant in Paragraph No.4 has stated that the bills which are subject matter of crime were sanctioned on 28/03/2014 and the applicant was working as Assistant Account Officer from 20/05/2008 till 07/01/2013. According to the applicant, the bills

in question are sanctioned after one year of his ceased to be Assistant Account Officer from the said Department.

9. We have carefully considered the allegations in the First Information Report, reply filed by the non-applicant No.1 and the additional affidavit filed by the applicant. On careful scrutiny of the material on record, it appears that the applicant was working as Assistant Account Officer from 20/05/2008 to 07/01/2013 in the concerned Department. From the copy annexed with affidavit, it appears that the bills in question were of 28/03/2014 when undisputably, the applicant was not working as Assistant Account Officer as he has already ceased to be on the said post on 07/01/2013.

10. In addition to above reasons, the Investigation Officer in Paragraph No.5 of his reply has made a categorical statement that during further investigation, it is revealed that present applicant has not dealt with the record of the matter pertaining to this college and therefore, there is no material found against the present applicant.

11. In view of the aforesaid reasons, we are satisfied that the continuation of proceedings against the applicant would amount to an abuse of process of Court.

12. We, therefore, pass the following order :-

First Information Report No.107/2014 dated 27/12/2014 registered with the non-applicant No.1-Police Station for the offences punishable under Sections 420 and 409 of the Indian Penal Code is quashed and set aside against the applicant in this application only.

13. Rule is made absolute accordingly.

JUDGE

JUDGE

Choulwar