

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.220 OF 2020

Vivek s/o. Shripat Rane

..Petitioner

Vs.

1. The State of Maharashtra
2. Geeta w/o. Avinash Kasar

..Respondents

Mr.Swapnil Patil, Advocate for petitioner
Mrs.G.L.Deshpande, APP for respondent no.1
Mr.S.Y.Mahajan, Advocate for respondent no.2

**CORAM : R.G. AVACHAT, J.
DATE : JANUARY 07, 2022**

ORDER :-

The challenge in this Writ Petition is to the order dated 30.01.2018 passed by the Court of Chief Judicial Magistrate, Aurangabad, refusing to discharge the petitioner herein from Regular Criminal Case No.1502 of 2017 and the order dated 31.12.2019 passed by learned Addl. Sessions Judge, Aurangabad, in Revision No.53 of 2018, confirming the order dated 30.01.2018.

2. Heard learned counsel appearing for the parties.

3. The petitioner is an accused in R.C.C. No.1502 of 2017. He is sought to be prosecuted for the offences punishable under Sections

420, 468 and 471 of Indian Penal Code (I.P.C.). The FIR has been lodged by one Geeta Kasar, real sister of the wife of petitioner herein. It has been alleged therein that the informant's husband is an industrialist. He runs an industry in M.I.D.C., Waluj, Aurangabad. The informant is a Medical Practitioner. Her husband bought a flat in Shiv-Krupa Apartment, Samarth Nagar, Aurangabad, way back in 1997. The father of the informant was residing in the said flat. The petitioner and his wife, being close relations of the informant, were permitted to reside in the flat along with the informant's father. The informant's father passed away in March, 2010. The informant and her husband were asking the petitioner to vacate the flat. They, however, refused. The relation between the two families, therefore, became strained. The informant and her husband, therefore, filed a Civil Suit for possession of the flat.

4. It is further alleged that it was found that the petitioner had obtained two ration cards. On the basis of the forged ration card, the petitioner obtained AADHAR card and Passport as well. A landline phone facility (2340887) had been obtained by the informant's father at the flat. Post demise of the informant's father, the petitioner obtained one SIM card from B.S.N.L. as against the

landline facility that was granted to the informant's father. It has been alleged that the petitioner had used the photographs of the deceased and forged his signature for obtaining the SIM card.

5. On investigation of the crime, charge-sheet has been filed against the petitioner herein. Before this Court, a memo of compromise arrived at between the informant and the petitioner has been placed on record. As per the terms of the settlement, the informant urged for discharge/exoneration of the petitioner herein from the crime. True, in view of Section 239 of the Code of Criminal Procedure, if the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused. It is, therefore, necessary to advert to the papers of investigation.

6. The offence punishable under Section 420 of I.P.C. is compoundable one. In view of the understanding between the informant and the petitioner herein, there would, therefore, be no difficulty to discharge the petitioner from the said offence. So far as regards the offences under Sections 468 and 471 of I.P.C. are concerned, it has to be stated that both the offences are said to have been committed against the public offices namely, the Department of Civil Supplies, State of Maharashtra and B.S.N.L.

Admittedly, the authorities of both the agencies did not allege the petitioner to have committed the alleged offences. In response to the communication made to the Food Distribution Officer, Aurangabad, it has been informed that the ration card bearing no.SP.424667 was issued in the name of the petitioner. The names of the family members have also been appearing therein; whereas another ration card (WP.051720) was found to have not been registered in their record. The officials of the Civil Supplies Department do not allege the petitioner to have been misusing any of the ration cards. There is also nothing to suggest in what way, the petitioner has forged one of the ration cards and used the same knowing it to be forged one. It has also been informed by the Food Distribution Officer that another ration card has not been issued by his office.

7. So far as obtaining SIM card from B.S.N.L. against the landline phone facility post demise of the father of the petitioner, is concerned, it has to be stated that the B.S.N.L. authorities had communicated the informant that the landline telephone connection and the SIM card issued in the name of Vinayak Kolapkar, were not in operation. In paragraph 3 of the communication, they have denied the allegations made by the informant in her application.

8. This Court's attention had not been adverted to any material to suggest that there are grounds for presuming the petitioner to have committed the offence. In view of this and particularly the fact that the two families have arrived at an understanding, it would be desirable to allow the petition. The Writ Petition is, therefore, allowed in terms of prayer clause (B).

[R.G. AVACHAT, J.]

KBP