

IN THE HIGH COURT OF JUDICATURE OF BOMBAY**BENCH AT AURANGABAD****CRIMINAL WRIT PETITION NO. 926 OF 2022**

Bhagwan Gamaji Ambhore
Age. 71 years, Occ. Nil,
R/o. MHADA, HIGR 28/30,
N7, CIDCO, Aurangabad,
Dist. Aurangabad.

....Applicants

Versus

1. The State of Maharashtra,
Through Secretary,
Department of Home Affairs
Mantralaya, Mumbai.
2. The Commissioner of Police,
Aurangabad.
3. The In charge of Police Station,
Police Station, CIDCO,
Aurangabad.
4. Bharat @ Monti Prabhakar Tayade
Age. Major, Occ. Nil,
R/o. Plot No. 22, Pratap Nagar,
New Modern Housing Society,
Nagpur, Dist. Nagpur.
Mob. No. 9822222298, 7020138442,
7887640164.

....Respondents

Advocate for Petitioner : Mr. M.K. Bhosale
APP for Respondent No.1 : Mr. M.M. Nerlikar

**CORAM : SMT. VIBHA KANKANWADI &
RAJESH S. PATIL, JJ.**

DATE : 04.10.2022.

JUDGMENT [PER : RAJESH S. PATIL, J] :

1. Present Criminal Writ Petition is filed under Article 226 of the Constitution of India seeking direction to the police authorities to register the crime against respondent No. 4 / Bharat Tayade, who is the relative of wife of the petitioner, for the offences punishable under Sections 406, 420 of the Indian Penal Code.

2. Heard learned Advocate Mr. M.K. Bhosale for the petitioner and learned APP for State at length and perused the record.

3. It is the case of the petitioner that his wife is a government employee working as Gynecologist – Class 1 at District Women Hospital, Jalna. The respondent No. 4 is the relative of his wife and is well acquainted with the family of the petitioner. It is further stated that respondent No. 4 called the petitioner in August, 2016 and stated that he has good contacts with the persons working in the Health Department, Government of Maharashtra, and he can help them in transferring the wife of the petitioner from Jalna to Aurangabad, and for that purpose he demanded Rs. 3,50,000/- immediately.

4. As the petitioner and his wife were in a great difficulty, due to the wife of petitioner did not get transfer, they immediately paid Rs.50,000/- by cash and the balance

amount of Rs.3,00,000/- by way of bank transfer on 06.08.2016 and 08.08.2016 respectively.

5. After the monies were received by respondent No.4, he started avoiding and giving false promise to the petitioner and his wife. After much perseverance, the respondent No. 4 only repaid a sum of Rs. 9,000/- to the petitioner, however he was denying to pay any further amount. As much time was wasted; the petitioner approached respondent No. 2 / the Commissioner of Police, Aurangabad, as he felt that the respondent No. 4 had cheated, the petitioner and his wife. He then lodged the complaint under Section 406, 420 of I.P.C. on 09.05.2018.

6. As there was no action from the police, the petitioner filed further complaints with the police on 14.02.2019, and 13.07.2021. However, the police did not act on the complaints of the petitioner.

7. The petitioner hence filed the present Criminal Writ Petition under Article 226 of the Constitution of India, seeking directions to the police, to register crime case against the Respondent no.4.

8. It is seen from the record that the petitioner has given a bribe of Rs.3,50,000/- to the respondent No. 4 and now trying to recover that money (given for illegal purpose) by way of filing present Criminal Writ Petition under Article

226, for registration of criminal case. The petitioner is trying to use police machinery to recover his monies.

9. On Petitioner's own showing the transactions of the petitioner was with his own relative and that was a monetary transaction; which is of a civil nature. However, the petitioner is trying to convert his civil dispute into a criminal case. So also the petitioner has efficacious remedy under Section 156 (3) of Cr.p.c., however the Petitioner has approached this Court without availing the remedy available under the law.

10. Hence, we conclude that no case is made out for interference under Article 226 of the Constitution of India.

ORDER

Criminal Writ Petition stands rejected.

(RAJESH S. PATIL, J.)

(SMT. VIBHA KANKANWADI, J.)