

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1884 OF 2020

Ankush s/o Rohidas Chavan

.. Applicant

Versus

1. The State of Maharashtra
Through Police Inspector (ACB),
Police Station (City), Udgir,
Dist. Latur.

2. Namdeo s/o Tukaram Bhosale

.. Respondents

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Mr. V. D. Salunke i/b Mr. M. V. Salunke, Advocate for applicant.
Mr. M. M. Nerlikar, APP for respondent No.1 - State.
Mr. K. A. Kadam, Advocate for respondent No.2.

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

DATE : 23-11-2022

ORDER :- [Per Smt. Vibha Kankanwadi, J.]

. Present application has been filed invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing the FIR bearing Crime No.165 of 2020 dated 15.07.2020 registered with Udgir City Police Station, Dist. Latur for the offences punishable under Sections 7 and 12 of the Prevention of Corruption Act.

2. Applicant is a public servant and he was working on the post of Block Development Officer at Udgir. Respondent No.2 is the informant, who had given the said complaint alleging that the applicant had demanded bribe or illegal gratification.

3. Heard learned Advocate Mr. V. D. Salunke instructed by learned Advocate Mr. M. V. Salunke for the applicant, learned APP Mr. M. M. Nerlikar for respondent No.1 - State and learned Advocate Mr. K. A. Kadam for respondent No.2.

4. The informant in the case is a husband of the Sarpanch of the village Kumdal (Her), Taluka Udgir, District Latur. In the capacity as a husband of Sarpanch of the village though not concerned with official business of village panchayat still he claims to have approached the applicant to sanction certain bills of alleged expenditure made by the village panchayat. Informant alleged to have approached the applicant serving as Block Development Officer for approval of those bills. It is alleged that the sanction was required from the panchayat samiti for the bill of Rs.59,000/- towards purchase of electric motor pump with equipment and bill of Rs.1,12,000/- for purchasing sports equipment and furniture for Anganwadi and Rs.1,48,000/- for LED lights. In order to get those bills sanctioned and approved, the informant approached the applicant. On 29.06.2020 the applicant alleged to have demanded

gratification to the tune of 2% of the bill amount for sanctioning those bills. He has approved the bill of Rs.59,000/-. It is alleged that on 02.07.2020, the applicant suggested the informant to first purchase sports equipment and furniture then bring the bill for approval. The informant purchased the same and approached the applicant on 03.07.2020 for approving said bill. At that time the applicant alleged to have demanded gratification and asked him to pay the amount to Gramsevak. On 04.07.2020, the informant contacted accused No.2 Gramsevak, however, he did not accept the amount of gratification and asked him to directly pay the same to the applicant. On 06.07.2020, when attempt was made to pay the amount, the applicant was not present in the office. It is alleged that on 11.07.2020 accused No.2 informed the informant that the applicant is not ready to accept the amount and he lodged complaint on 15.07.2020.

5. Perusal of the FIR, of which story has been already narrated, would show that complaint was given by respondent No.2 on phone on 30.06.2020 to Police Inspector, Darade of Anti Corruption Bureau and he says that he would wait in Basveshwar Chowk and P.I. Darade should come to that place. He then says that around 11.00 a.m. he went to that place i.e. Basveshwar Chowk and P.I. Darade went in police vehicle and informant sat in the said vehicle. The FIR

is giving a picture that oral complaint was reduced into writing in the vehicle. Which kind of procedure is adopted, is a question. Why so much of hurry has been shown by P.I. Darade. When he came in government vehicle around 11.00 a.m., that means before the complainant had met him, P.I. Darade had even made arrangements for the panchas. This also shows the hurry on the part of P.I. Darade. Same is the case on 02.07.2020. He gave phone call at 8.00 a.m. to P.I. Darade and went to Basveshwar Chowk where P.I. Darade along with other members from the raiding party went at that place. This was also repeated on 04.07.2020, 06.07.2020 and 15.07.2020 near Tiwatghayal Board on Latur-Udgir road. The entire FIR shows that the informant never went to Anti Corruption Bureau's office. Why this kind of red carpet has been led by P.I. Darade for the informant cannot be gathered.

6. The investigation papers as well as the FIR would show that amount was not paid and accepted by the applicant. Even if we consider the transcripts of the conversations recorded in digital voice recorder, it can be seen that there was no clear demand of money by the applicant. All the while, the informant was saying about money which is stated to be 2% of the purchase amount. This conversation will not prove that there was any kind of demand of money, which can be said to be an illegal gratification. Further,

as aforesaid, the informant was not at all concerned with the Grampanchayat, whose bills were supposed to be cleared by the applicant. Grampanchayat could not have given any authority to the informant to deal with/handle the affairs of the Grampanchayat on its behalf. Therefore, the basic question is when the informant had no work of his own with the applicant, even if the applicant would have had demanded any amount, whether it would amount to illegal gratification, is a question. Another fact to be noted is that the investigation papers as well as FIR would show that initially the bill was submitted which was not according to the procedure or the articles were not purchased yet the bill was drawn, that itself is an illegal act. Applicant made the informant to purchase those articles first. If he had the intention to seek illegal gratification, then he could have done it earlier also, but it is to be noted that he insisted that the articles should be purchased first. Therefore, the intention is absent here. The FIR appears to have been lodged with some ulterior motive and the contents of FIR as well as the investigation that has been done up till now, especially the pre-trap panchanama, post trap panchanama and the statements of witnesses, are not disclosing any offence much less under Section 7 and 12 of the Prevention of Corruption Act. It would be a futile exercise to ask the applicant to face the trial. The case is squarely falls within the parameters laid down in ***State of Haryana and***

others Vs. Ch. Bhajanlal and others, [AIR 1992 SC 604].

Hence, the following order :-

ORDER

- i) The application stands allowed.
- ii) The FIR bearing Crime No.165 of 2020 dated 15.07.2020 registered with Udgir City Police Station, Dist. Latur for the offences punishable under Sections 7 and 12 of the Prevention of Corruption Act stands quashed and set aside.

**[RAJESH S. PATIL]
JUDGE**

**[SMT. VIBHA KANKANWADI]
JUDGE**

scm