

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

932 CRIMINAL APPLICATION NO.2457 OF 2022

GAJANAN SURYAKANTRAO PENDKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. Y.P. Deshmukh, Advocate for the applicant

Mr. A.M. Phule, APP for respondent No.1

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

DATE : 12th AUGUST, 2022

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Applicant has invoked the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973 for quashing the First Information Report vide Crime No.190/2022 dated 29.03.2022 registered with Nanded Rural Police Station, for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988.

2 Heard learned Advocate Mr. Y.P. Deshmukh for the applicant and learned APP Mr. A.M. Phule for respondent No.1. Case is not even made out

for issuing notice to respondent No.2.

3 Perusal of the First Information Report would show that informant is a pensioner. He got retired from Primary Health Centre, Chandola, Tq. Mukhed, Dist. Nanded. Informant had given complaint with Anti Corruption Bureau on 28.03.2022 stating that the Clerk at Primary Health Centre, Chandola – accused No.1 Shaikh Shadul Habibsaab is demanding bribe of Rs.5,000/- for drawing bill in respect of difference of Time Bound Promotion. Thereafter, it was decided to arrange raid. At the time of verification panchnama when the informant had gone along with panch No.1, at that time, the accused No.1 told that the applicant, who is the Assistant Accounts Officer at Panchayat Samiti, Mukhed, is demanding amount of Rs.10,000/-. Thereafter phone call was made by accused No.1 to accused No.2 and then, when it was told to him that it was reduced the amount, the amount was then settled by applicant to Rs.6,000/-. Thereafter, under the pretext to bring the amount the informant and panch No.1 came out side and then the tainted amount was given to him. The voice recorded was given and it was decided to meet the accused No.1. He was near a Mangal Karyalaya and at that time the said amount was given to accused No.1. The post-trap panchnama was carried out and tainted amount of Rs.6,000/- was found on the person of accused No.1, which according to the

informant, was for accused No.1 as well as the present applicant.

4 The learned Advocate for the applicant is submitting that for the difference to be drawn Panchayat Samiti wise data has been given and for Mukhed it was Rs.23,08,701/-, which was to be distributed. Thereafter the list of the beneficiaries is also given and the informant was to get difference of about Rs.2,01,794/-. The cheque was also ready on 28.03.2022. Under such circumstance, there was no question for demanding any amount by the applicant.

5 It appears that the applicant wants this Court to believe certain documents which he has appended along with the application. In fact, the disputed facts or the facts to be proved by the accused as a defence by adducing appropriate evidence cannot be considered under Section 482 of the Code of Criminal Procedure at this stage. It is to be noted that the First Information Report was lodged on 29.03.2022 and the investigation is still going on. It appears that the applicant has hurriedly come to this Court. There should be investigation and if the documents which the applicant intends to rely would be considered by the Investigating Officer, then, he may arrive at his own conclusion. Certainly, at this stage, on the say of the applicant we cannot abort the investigation against him, when in the First

Information Report certain things have been stated about his role. Further, we are also required to consider that the raid has taken place on 28.03.2022 on accused No.1 at Nanded and how on the same day the cheque was prepared by accused No.2 or on his say by somebody else, is also a question. Therefore, this is not the stage where we should exercise our powers. Application stands rejected.

(Rajesh S. Patil, J.)

(Smt. Vibha Kankanwadi, J.)

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