

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

62 CRIMINAL APPLICATION NO.2598 OF 2021

**VITTHAL DNYANOBA BHISE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicant: Mr. Surve Kshitij H. and
Mr. Dudhate Shivaji Namdevrao

APP for Respondent No.1: Mr. S. J. Salgare
Advocate for Respondent No.2: Mr. S. V. Deshmukh

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**CORAM: SARANG V. KOTWAL &
BHARAT P. DESHPANDE, JJ.**

DATE: 27th JUNE, 2022

PER COURT:

1. This is an application for quashing of the Summary Criminal Case No. 82/2020 pending on the file of learned Judicial Magistrate First Class, Manwat, District Parbhani under Section 188 and 269 of the IPC.

2. Heard learned Counsel for respective parties.

3. The F.I.R. was lodged at Manwat Police Station 82/2020 on 22.04.2020 under the said sections. The F.I.R. was based on the complaint

given by Respondent No.2 herein. He has stated that the applicant was Sarpanch of Kolhawadi. He was residing at Aurangabad during initial part of lockdown. He came to Kolhawadi from Aurangabad. He got himself examined from a Medical officer at Primary Health Centre. It is the case of Respondent No.2 that the applicant was asked to stay at home for 14 days. In spite of that, the applicant, on 18.04.2020, held meeting with the Gramsevak, Talathi, Anganwadi Worker, Aasha Worker, Anganwadi Helper and Grampanchayat employee. On 19.04.2020 he accompanied an employee of the Grampanchayat who sprayed disinfectant in the village. According to the first informant, because of the applicant's movement in the village the villagers were apprehensive and that the applicant had committed an act of spreading Corona. On these allegations F.I.R. was lodged. The investigation was carried out and the charge-sheet was filed.

4. On the previous occasion we had asked the learned APP to produce statement of the Medical Officer in this context.

5. Learned APP submitted that statement of Medical Officer was not recorded and it is not part of the charge-sheet. Therefore, the charge-sheet does not explain the reason behind the medical officer's advice.

6. Learned Counsel for the applicant invited our attention to the letter dated 29.04.2020 issued by the Medical Officer Primary Health Centre Kolha. This letter was issued at the request of the applicant himself. It is mentioned in the letter that, on 18.04.2020, the applicant had approached this Medical Officer for examining himself for any suspected symptoms of Corona virus. He had informed that he had stayed in his house since lockdown was imposed and also had no history of visiting any public place. The Medical Officer had examined the applicant and found that he had no symptoms of dry cough, high grade fever

and breathlessness. The Medical Officer suggested to the applicant to home quarantine himself for 14 days and take necessary precautions like social distancing, wearing mask if he had to go in public for any emergency.

7. Learned Counsel for the applicant submitted that these precautionary measures were advised by the Medical Officer only to safeguard the health of the applicant himself. The applicant was not suffering from any infection. He also submitted that the other investigation papers do not reveal commission of any offence against the applicant.

8. He invited our attention to the communication given by the Superintendent of Police, Aurangabad. The applicant had asked for permission to go to Parbhani. The Superintendent of Police mentioned that there was no need for any pass. He could show his Identity Card. Since pass was not necessary, the request for it was rejected. Learned Counsel for the applicant

submitted that this itself shows that permission to travel from Aurangabad to Parbhani was not necessary in the opinion of the Police Authorities.

9. Learned Counsel for the applicant further submitted that the Collector, Parbhani had formed a village Task Force which consisted of the Sarpanch, Police Patil, former Army men, Asha worker, Anganwadi Worker etc. The Sarpanch was to be the Chairman of the said Task Force. The said order enjoined the Task Force to perform certain duties and to handle the unprecedented situation that had arisen. Learned Counsel for the applicant submitted that it was his duty to guide the committee members and take necessary steps as directed by the Collector. He, therefore, submitted that the applicant had performed his duty by following all the due procedure and, therefore, no offence is committed.

10. Learned Counsel for Respondent No.2 submitted that the applicant has alternate remedy

of preferring an application for discharge. He further submitted that the letter given by the Medical Officer itself shows that the applicant was directed to stay in his house for 14 days. He further submitted that the Certificate dated 18.04.2020 issued by the Medical Officer also shows that he was advised to quarantine himself for 14 days.

11. Learned APP supported learned Counsel for Respondent No.2.

12. We have considered the submissions canvassed by the learned Counsel for respective parties.

13. The charge-sheet contains statements of most of these committee members. All of them have stated that the applicant had conducted a meeting and had taken part in various activities to combat the situation. All these statements, in fact, show that the applicant had diligently performed his duties. He was not suffering from any infection.

He had travelled from Aurangabad to his village after getting positive response from the superior Police Officer. He himself was not suffering from any symptom as is clear from the Medical Certificate and the letter issued by the Medical Officer. It was only by way of precautionary measures, he was advised to stay at home for 14 days. In spite of this he took some risk to perform his duty. He had himself worked selflessly for the villagers and for that unfortunately he is facing these proceedings before the Court as an accused. In our opinion, this is a gross case where the proceedings need to be quashed. Continuation of such proceedings would be sheer abuse of process of law. In fact, the applicant deserves to be commended for his efforts, as in spite of the risk involved, he gave his services for the villagers.

14. In this view of the matter, this is a fit case where the proceedings against the applicant needs to be quashed. Therefore, the application is allowed. The proceedings in Summary Criminal Case

No.82/2020 pending on the file of the Judicial Magistrate First Class, Manwat are quashed and set aside.

15. Criminal Application is disposed of.

[BHARAT P. DESHPANDE, J.] [SARANG V. KOTWAL, J.]

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