

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

CRIMINAL APPEAL NO. 507 OF 2017

JITENDRA S/O. KARWARLAL JAIN
VERSUS
SANJYOTI W/O. SANJAY MUTHA AND ANR

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Advocate for Appellant : Mr. P. P. More h/f Mr. Korade D. R.
APP for Respondent/State : Mrs. P. V. Diggikar
Advocate for Respondent No.1 : Mr. Jain Gajendra Devichand

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CORAM : KISHORE C. SANT, J.
DATE : 11th OCTOBER 2022.

Per Court :

Heard both the parties.

1. This appeal is arising out of the order dated 05.08.2017 passed by the learned Additional Sessions Judge, Ahmednagar in Miscellaneous Application No.133/2012. The Misc. Application was filed by the present Appellant seeking initiation of action under Section 340 of the Code of Criminal Procedure, 1973. He points out that the Respondent No.1 had categorically false statement in his application seeking bail. It

is the case that the present Appellant had filed a complaint against Respondent No.1 and lodged FIR with the Police for the offences punishable under Section 406 and 420 of the Indian Penal Code, 1860 and on that basis a crime was registered.

2. The Respondent No.1 had filed application seeking bail in the event of his arrest bearing Bail Application No. 656/2011 before the learned Sessions Court at Ahmednagar. In the said application, the Respondent No.1 has categorically made a statement in bold letters that '**THIS APPLICANT HAS NOT DIRECTOR NOR CONCERN WITH THE SAID COMPANY**' against which, the offence was registered. He submits that the learned Court of Additional Sessions Judge, Ahmednagar by order dated 06.06.2011 was pleased to grant bail one of the considerations, while granting bail was the statement that the present Respondent No.1 is not a Director, nor she is concerned with the said company.

3. The learned Advocate for the Appellant pointed out that as a matter of fact, the Respondent No.1 was shown to be a director of the company as appearing from the site of Registrar of companies, wherein

she is shown as a Director of the company namely Future Mining Tools Pvt. Ltd. Thus he submits that palpably a false statement was made before the Court for the purpose of obtaining bail. On coming to know about the factual position, he filed Misc. Application No. 133/2012 and pointed out that the Respondent No.1 has made a false statement in her application seeking bail in the event of arrest. However the said application came to be rejected.

4. Learned Advocate for Respondent No.1 points out that while considering the matter of grant of bail, this statement was not the sole consideration. The Court had granted bail mainly on the ground of parity and that Respondent No.1 was not concerned and her involvement is not shown in the matter. He relied upon the judgment in the case of **Amarsang Nathaji Vs. Hardik Harshadbhai Patel** reported in (2017)1 SCC 113. Wherein, it is observed that mere making of contradictory statement by the parties is not sufficient to proceed under Section 340 of Cr.P.C. The Court has to form an opinion that it is expedient in the interest of justice to initiate an inquiry. The Court has to satisfy itself that an offence appears to have been committed.

5. Considered the submissions by both the Advocates. It is clear from the order impugned herein that the Court has noticed that a false statement was made before the Court, while obtaining bail. However further observation that everyday there are such instances and witnesses make false statement either in the pleadings or in the evidence before the Court. It is further observed that if actions are taken against all such persons, the Court will not be left with any other substantial work to do. While initiating such action, the Court has to take into account the gravity and repercussions of such false statement or representation. With such observations, the application is rejected.

6. In this case, it is clear that the Respondent No.1 has made a false statement on oath. About intention, there is no question since the portion in the application is typed in bold type and that too in capital letters, which clearly shows that a false statement was made intentionally in the application. Because there will be increase in burden of the Court, is no ground to left such persons to go without any action. A Court is a place, where sanctity is attached to every statement and averment in the pleadings, the averments cannot be made lightly.

It is necessary to keep in mind that even the Court cannot take any statement lightly and if a false statement is made before the Court and if the Court has come to a conclusion that such statement is intentionally made by the party to seek some orders from the Court that certainly it is a cause of concern and serious note needs to be taken. In this case it is found that the learned Court below has not seriously taken the note of false statement made before it. Decision needs to be taken considering material before the Court. While passing order, Courts need not get swayed by extraneous considerations. Merely because passing some order will increase burden on Court is no reason to allow or reject applications. The learned Court below certainly has committed a mistake by rejecting application on such a ground.

7. In view of the above, this Court finds it is necessary to quash and set aside the impugned order dated 05.08.2017 passed by the learned Additional Sessions Judge, Ahmednagar in Miscellaneous Application No.133/2012 with a direction to decide the said application afresh by giving opportunity to both sides.

8. With this, the appeal stands disposed off accordingly.

[KISHORE C. SANT, J.]

Najeeb.