

Diksha Rane

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 36 OF 2020

PRAKASH MANOHAR CHAVAN

..PETITIONER

VS.

JYOTI SHIKSHAN MANDAL (TRUST) & ORS...RESPONDENTS

Mr. Rohan H. Barge for the petitioner.

Mr. A. R. Patil, APP for the State.

Mr. Rushikesh Kale i/b. V. V. Purwant for respondent nos. 2 to 4.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 17, 2022.

P.C. :

1. Heard learned counsel for the petitioner, learned counsel for the respondent nos. 2 to 4 and learned APP for the State.

2. The challenge in this writ petition filed under Article 227 of the Constitution of India, is to an order dated November 13, 2019 passed by the Sessions Judge, Solapur, in Criminal Revision Application No. 56 of 2015, dismissing the revision application filed by the petitioner.

3. The petitioner filed a private complaint before the Chief Judicial Magistrate, Solapur, being Regular Criminal Case No. 250 of 2014 against the respondent nos. 2 to 11 for the offences punishable under sections 420, 468, 409, 466, 470, 471 read with 34 of the Indian Penal Code.

4. By an order dated May 18, 2015, the Chief Judicial Magistrate, for the reasons recorded, refused to issue process against any of the respondents, consequently, dismissed the complaint. It is against this order of the Chief Judicial Magistrate that the revision came to be filed before the Sessions Judge, Solapur, under section 397 of the Code of Criminal Procedure, 1973. As now the revision also is dismissed for the reasons mentioned in the impugned order, the present writ petition is filed. The writ petition essentially is against the trustees of the respondent no.1-trust and the respondent nos. 10 and 11 who are the Government officers.

5. In brief, the petitioner-original complainant alleged that,

- (a) the respondents are illegally occupying the post of trustees;
- (b) there are material irregularities while recording the name of the respondent no.1 in respect of the land Gat No.46 and 48/2 belonged by Shri Vitthal Avshetti;
- and
- (c) there has been appropriation of Government fund of Rs.20,00,000/- for school building of the respondent no.1.

So far as allegation (a) and (b) are concerned, the revisional Court has recorded in paragraph 8 of the order that the advocate for the petitioner has abandoned the said grounds of the complaint. So far as ground (c) is concerned, the revisional Court has decided against the petitioner for

the reasons mentioned in paragraphs 9 to 13 of the impugned order.

6. Learned counsel for the petitioner vehemently urged that the proper procedure was not followed while sanctioning the funds of Rs.20,00,000/- to the respondent no.1 – trust. He pointed out that the Educational Department has issued letters regarding non-approval of the school of the respondent no.1 – trust and hence the competent authority was not justified in sanctioning the funds. For the reasons mentioned, the revisional Court has found that the sanction of the funds for constructing the school building is not in any manner illegal. The petitioner has not approached any superior authorities or even the concerned authority alleging that the funds have been sanctioned by the authorities in a manner not known to law. The trial Court as well as the revisional Court have, for the reasons recorded, observed that District Authority and implementing agency furnished utilization certificate in the prescribed form to State Government and Ministry of Statics and Programmer Implementation Department. The audit report is also forwarded to the concerned department. It is further observed that none of the authorities have raised any objection regarding any material irregularity in the utilization of the said amount. The revisional Court has taken into consideration even the circumstance that the petitioner has not raised any objection before the competent authority, having supervisory powers in respect

of the sanction so granted.

7. Even the investigating officer has, in his report, stated that the petitioner is neither trustee nor a member of the respondent no.1 – trust. The report also indicates that the authority has sanctioned a fund of Rs.20,00,000/- for the construction of the school building and as per sanction, the building was constructed. The said amount was not directly given to the respondent no.1-trust, but given to Public Works Department.

8. I do not see any infirmity in the order passed by the revisional Court. The writ petition is rejected.

(M.S.KARNIK, J.)