

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

CRIMINAL WRIT PETITION NO.917 OF 2018

PRIYA
RAJESH
SOPARKAR

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|----|---|------------------|
| 1. | Chetan Laxman Badgujar] | |
| | Age about 36 years, Occupation – Business] | |
| | R/at. Shriramnagar, Wanzola Road,] | |
| | Bhusaval, Taluka Bhusaval, Dist. Jalgaon] | |
| 2. | Kiran Kashinath Badgujar] | |
| | Age about 46 years, Occupation – Business] | |
| | R/o. Plot No.16/17, Kastiru Park,] | |
| | Devendraangar, Jalgaon] | |
| 3. | Nitin Pradeep Badgujar] | |
| | Age about 33 years, Occupation- Business] | |
| | Plot No.19, S. No. 54, Pragati Garden,] | |
| | Mundhwa, Pune 36.] | ... Petitioners. |
| | V/s. | |
| 1. | The State of Maharashtra] | |
| | through the Senior Police Inspector] | |
| | Chandan Nagar Police Station, Pune.] | |
| 2. | Rahul Gorakh Kate] | |
| | Aged about 24 years, Occupation – Service] | |
| | R/o. Survey No.33/1. Borate Vasti,] | |
| | Chandannagar, Kharadi, Pune.] | ... Respondents. |

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Mr. Dilip Bodake, for the Petitioners.
Mr. K. V. Saste, APP for Respondent No.1-State.
Mr. B. A. Lawante, for the Respondent No.2.

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**CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.
DATED: 10th FEBRUARY, 2022.**

P.C.:-

1. Heard learned counsel for the Petitioners, learned APP for the state and learned counsel appearing for Respondent No.2. Respondent No.2 - Rahul Gorakh Kate is also present in this court by virtual mode.

2. The Petitioners are the trustees of a Trust namely "Kulswamini Chamunda Mata Foundation, Jalgaon" registered under the provisions of Maharashtra Public Trust Act, 1950 as well as Societies Registration Act, 1860 and the said Trust runs various academic institutions including an institution namely "Red Pixel Animation Academy", a college situated at Kharadi, Pune. The Petitioners are before this Court seeking grounds of the First Information Report bearing Crime No.123 of 2017 registered at Chandan Nagar Police Station for the offences punishable under Sections 406, 420, 120B of the Indian Penal Code.

3. The perusal of the material placed on record shows that the Respondent No.2 was prosecuting his studies in B.Sc. first year course in the year 2012. Certain persons representatives of the Red Pixel Animation Academy College attended the college wherein the Respondent No.2 was prosecuting his studies and provided information about the course being run in the said institution i.e. the Red Pixel Animation Academy College. The sum and substance of the submission of Respondent No.2 is a rosy picture of the institution was painted firstly by representatives and subsequently by the Petitioners of a particular course. The Respondent No.2 was allegedly informed that on admission in the said course the Respondent No.2 is entitled for certain government scholarship. Respondent No.2 subsequently came across with a news published in the local newspaper-misdeeds in the said institution in respect of the scholarship. The Respondent No.2 then approached this police station and lodged his report on 26th May, 2017. Learned counsel for the Petitioners submitted that on lodgment of the report the Petitioners approached the learned Additional Sessions Judge, Pune by filing an application for grant of bail was allowed. The learned counsel for Petitioners then invited our attention to the affidavit-in-

reply filed in this court. The affidavit-in-reply placed on record at page 102. Certain interesting statements are made in the affidavit-in-reply and the statements read thus:-

“1. I say that I am residing in the above said address has taken admission to the certificate course of Diploma in 2D Animation (Distance education-2013 pattern) in the academic year 2013-14 of the college Red Pixel Animation College, Kharadi, Chandan Nagar, Pune, run by the Kulswamini Chamunda Mata Foundation, Jalgaon. I say that however while lodging the FIR inadvertently I have stated that I have taken the admission to the said course in the said college in the academic year 2012-2013.

2. I say that I am the first informant in the C.R.No. 123 of 2017 lodged before the Chandan Nagar Police Station, Pune u/s 406, 420, 120B of IPC against the Petitioners/ Original accused. I say that in the CR I stated that I learned that in the college bank accused on my name the social welfare department, Pune has remitted Rs.22,000/- towards to my scholarship amount because I have been completed diploma in animation course. I say that recently I made further inquiry with the office of social welfare department, Pune and I realize that for the academic year 2013-14 did not remitted/transferred any amount towards scholarship fee of any student including me either in my bank account or college bank account. I say that therefore in view of the subsequent information I realize that under the misconception of the fact and misunderstanding myself I have lodged the above said C.R.No.123 of 2017 and therefore, I have no grievance against the petitioners. I say that therefore the appropriate order may be passed considering the fact that I have no any intention to falsely implicate the accused persons and therefore I have no objection to allow the above said writ petition.”

4. In the first paragraph of the affidavit-in-reply the Respondent No.2 has stated that he has taken admission to the certificate course of diploma and to the Distance Education 2013

pattern in the academic year 2013-14. Plain reading of the statement in Paragraph No.1 clearly shows that the Respondent No.1 was admitted in a course not requiring his physical attendance as the course was a Distance Education 2013 Pattern Course be that as it may. Then there are another statements in Paragraph No.2 and the same read thus :-

“I say that in the CR I stated that I learned that in the college bank accused on my name the social welfare department, Pune has remitted Rs.22,000/- towards to my scholarship amount because I have been completed diploma in animation course. I say that recently I made further inquiry with the office of social welfare department, Pune and I realize that for the academic year 2013-14 did not remitted/transferred any amount towards scholarship fee of any student including me either in my bank account or college bank account. I say that therefore in view of the subsequent information I realize that under the misconception of the fact and misunderstanding myself I have lodged the above said C.R.No.123 of 2017 and therefore, I have no grievance against the petitioners. **I say that therefore the appropriate order may be passed considering the fact that I have no any intention to falsely implicate the accused persons and therefore I have no objection to allow the above said writ petition.**”

(Emphasis supplied)

5. Considering the facts that the Respondent No.2 lodged report to the police station in the year 2017 about an admission in a report course in the year 2012 as well as considering the fact that the Respondent No.2 firstly lodged the report to the police station on a news item and made a statement before this court that subsequently he verified the facts and also considering the no objection of the Respondent No.2 for quashing the report on his own will and wish and in view of the judgment of the Hon'ble Apex

Court, we are of the opinion that the lodging of the report at the instance of the Respondent No.2 against the Petitioners and continuity of any proceedings arising out of the said registration of the crime would not serve any fruitful purpose.

6. In our case the counsel for the Petitioners made out the case for allowing the petition. At the same time we are of the opinion that it was the undue haste of the Respondent No.2 prompting the entire machinery and to set in motion and then his consent for quashment of the FIR requires imposition of certain conditions on Respondent No.2 for allowing the petition.

7. Accordingly, the Petition is allowed in terms of prayer clause (b).

8. While considering this aspects the Respondent No.2 made a voluntary statement before this court that he would deposit certain amounts to the Legal Aid Services Authority as he had learnt a lesson in life and accordingly he is ready to deposit an amount of Rs.15,000/- in two equal installments in two months monthly each installment of Rs.7,500/- and to place on record the receipts of such deposits.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)