

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO.240 OF 2023

Sandhya Raghunandan Bhide.

... Applicant

Versus

1) The State of Maharashtra.

2) Shailaja Mapari.

... Respondents

...

Mr. Amit A. Yadkikar, Advocate for Applicant.

Mr. S. N. Morampalle, APP for Respondent No.1 / State.

Ms. Anjali Dube, Advocate for Respondent No.2.

...

CORAM : R. G. AVACHAT and
SANJAY A. DESHMUKH, JJ.

DATE : 08th September, 2023.

ORDER: (Per Sanjay A. Deshmukh, J.)

1 Heard the learned advocates for the respective parties.

2 This is an application, under Section 482 of the Code of Criminal Procedure, 1973, for quashment of the FIR and consequential charge-sheet in R.C.C. No.1295 of 2020, pending in the Court of learned Judicial Magistrate First Class, Aurangabad, for the offences punishable under Sections 420 and 468 read with 34 of the Indian Penal Code, 1860.

3 The informant averred that she is serving as a Medical Officer in the Municipal Corporation, Aurangabad and looking after the registration of birth and death of inhabitants. The death of one Shaikh Amir Shaikh Maddu Patel occurred on 15th June, 1987. His death certificate was issued on 17th July, 1990. The informant noticed that the said date of death was not noted as per death certificate at serial No.5792. That time, the Registrar of birth and death published notice in the daily “Lokmat” and “Aurangabad Times” calling objection within 21 days. Therefore, the said registration of death was cancelled. Thereafter, as per the directions of the Executive Magistrate, Aurangabad, another death certificate of Shaikh Amir Shaikh Maddu Patel dated 9th March, 2011 bearing No.653 mentioning the date of his death as 26th August, 1980 was issued. The informant found that said date of death was registered by making interpolation in the concerned documents. She called the guidance from the Deputy Director Health / Deputy Registrar of Birth and Death, Pune (Maharashtra State) to register the crime against the Registrar and officials of that time. He directed to lodge the report against the applicant. Therefore, the said crime was registered against the applicant.

4 The learned counsel for the applicant submitted that the name of the applicant does not appear in the FIR and in the charge-

sheet as to how she is criminally liable for such fabrication of the documents. The applicant is a retired employee of the said Municipal Corporation. She retired before 10 years. The alleged fabrication is of the year 1980. No any document of that time is available to establish the alleged forgery and fabrication of false death certificate. The dispute arose between the legal heirs of Shaikh Amir Shaikh Maddu Patel and the purchaser of the agricultural land from him. He pointed out that there is no evidence of handwriting expert on record. He pointed out that the FIR itself shows that the alleged death certificate is cancelled by following due procedure of law and a fresh death certificate is issued as per the directions of the concerned Executive Magistrate. There is *prima-facie* no material to show that the applicant has done the alleged interpolation and fabricated alleged death certificate. There is no evidence of alleged motive of wrongful gain on the part of the applicant. He, therefore, prayed to allow the application.

5 The learned APP for the State and the learned counsel for respondent No.2 strongly opposed the application. They submitted that the applicant was in-charge of the post of Registrar of birth and death. There is strong evidence that she fabricated those documents. There is *prima-facie* evidence of making forgery against the applicant. It is lastly prayed to reject the application.

6 Perused the charge-sheet. The FIR does not disclose the name of the applicant to show that how she, at the relevant time and date, committed alleged act of fabricating alleged false death certificate. The charge-sheet does not *prima-facie* establish that accused fabricated false evidence of death certificate of Shaikh Amir Shaikh Maddu Patel. Thus, in the absence of *prima-facie* material of fabrication against the applicant, it would not be justifiable and legal to compel her to face the trial. It would be abuse of process of Court. The report and charge-sheet deserve to be quashed. The application deserves to be allowed. The application is allowed in terms of prayer clauses (B) and (C). No costs.

[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]

nga