

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

CRIMINAL REVISION APPLICATION NO.21 OF 2010

Tulshiram Laxman Naik,
Age : 60 years, Occupation Agriculture,
R/o. Navala Khurde,
Nandurbar.

...Applicant

VERSUS

1. V.J. Jamnekar (Padvi)
Age 58 yrs, Occupation Service,
R/o Adiwasi Society, Near Akashwani Deopur,
Dhule, District Dhule.
2. V.J. Bhamare,
Superintendent of Post
Age : 80 yrs, Occupation Pensioner,
R/o Sakri Road, Dhule.
3. D.R. More (Dismissed)
Superintendent of Post
Age : 58 yrs, Occupation Service,
R/o Dackghar, Dhule.
4. M. Balasubramanayam
Director of Post Department,
Age : 55 yrs, Occupation Service,
R/o. P.G.M. Office, Aurangabad.
5. Ghorpade,
Account Officer of Post Dept.
Age : 55 yrs, Occupation Service,
R/o. P.G.M. Office, Aurangabad.
6. Baban Modak,
P.G.M. of Post Dept.
Age : 58 yrs, Occupation Service,
R/o. P.G.M. Office, Aurangabad.
7. J.B. Kulkarni (Deleted)
Age : 58 years, Occupation Service,
R/o Postal Colony, Deopur, Dhule.

(2)

8. N.N. Bava,
Age : 50 yrs, Occupation Service
Supdt. Of Post Office, Malegaon.
9. D.C. Wankhede,
Age : 58 yrs, Occupation Service,
Supdt. Of Post Dept.
R/o Pravara Dackpal, Dhule ...Respondents

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Mr. Mohanish V. Thorat, Advocate for the applicant.

Mr. Bhushan Kulkarni, Advocate for UOI & respondent no.6.

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CORAM : S.G. MEHARE, J.

DATED : AUGUST 09, 2023

ORAL JUDGMENT :-

1. Heard learned counsel for the applicant, learned counsel for Union of India and respondent no.6, others remained absent.
2. The petitioner has impugned the order of the learned Additional Sessions Judge, Nandurbar passed in Criminal Revision Application No.04 of 2009 dated 27.11.2009 setting aside the order of issuing process of the learned Judicial Magistrate First Class, Nandurbar in Criminal Case No.203 of 2003.
3. The petitioner was serving in the postal department. He had made a complaint before the Magistrate alleging that the respondents have fabricated his leave record and thereby deprived him of promotion. Though he was senior to accused no.1, he was kept aside and he was promoted. All the accused in conspiracy with each other fabricated the documents and gave the undue

advantage to his junior employee. Admittedly, he approached against the promotion to his junior before the Central Administrative Tribunal. On the same allegations, the Central Administrative Tribunal, considering the facts of the case, declined the claim of the complainant. However, the complainant stuck up to his allegations of forging the documents. The learned Judicial Magistrate First Class on the basis of the material placed before him, had issued the process for the offence under Sections 485, 504 and 508 (II) of the Indian Penal Code by his order dated 13.10.2005.

4. The order of the learned Magistrate was impugned before the learned Additional Sessions Judge. The learned Additional Sessions Judge observing everything in detail was of the view that the material placed before the Court was not sufficient to issue the process. It has been specifically observed that the complainant/present petitioner was very much aggrieved because of his removal after Departmental Enquiry held by some of the accused persons. He had unnecessarily grudge against them. He availed the opportunity to challenge his removal before various forums but could not get any success and thereby he had resorted to file the complaint alleging that there was fabrication of documents and abusing and intimidating language. The learned Additional Sessions Judge did not satisfy with the allegations and quashed and set aside the order of the learned Magistrate issuing process.

5. Learned counsel for the applicant would submit that unless the inquiry is made as per the issue process order, it would be difficult to conclude that the material placed before the Court was insufficient to prove the forgery and fabrication of the documents. He would submit that the primary grievance of the applicant was that the junior to him was illegally promoted and to support him, all the accused as per their position supported him and deliberately deprived the applicant of promotion. He relied on the case of Inspector of Police and another Vs. Battenapatla Venkata Ratnam and another, 2015 AIR (SC) 2403. It was the case of sanction under Section 197 of the Criminal Procedure Code. The learned Additional Sessions Judge, Nandurbar recorded the finding on point no.2 that the sanction under Section 197 of the Criminal Procedure Code was necessary at the time of trial if required. The case of the complainant was not discarded for want of sanction under Section 197 of the Criminal Procedure Code. Hence, the said case law would not assist the applicant.

6. The other factums that goes to the root of the case were promoting a junior to the complainant. It has been specifically observed that when he was kept aside and his junior was promoted, he approached to various forums available under the service law. He lost there and as a last resort, he approached the criminal Court making the allegations that all the accused in conspiracy with an intent to promote accused no.1 who was junior to him, have

fabricated his leave record. It is apparent that the applicant had exhausted the available legal remedies and then he approached the criminal Court. It was a dispute arising out of service law under which various legal remedies are available before various forums. The fact finding was also recorded in the service matters and the findings were recorded against the petitioner. Considering this fact, it would be hard to digest that the applicant had a case to proceed against the respondents for forging his leave record. Learned counsel for the applicant could not point out the legal defect in the impugned order nor he satisfied the Court that there was an apparent error on the face of record, that warrants interference at the hands of this Court under Section 397 r/w 401 of the Criminal Procedure Code.

7. The applicant has no legal grounds available to interfere with the impugned judgment and order. The revision application is devoid of merit. Hence, the following order :

ORDER

- (i) Criminal Revision Application stands dismissed.
- (ii) No order as to costs.
- (iii) R and P be returned to the learned Judicial Magistrate First Class, Nandurbar.
- (iv) Rule is discharged.

(S.G. MEHARE, J.)