

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

CRIMINAL APPLICATION NO. 192 OF 2021

Shaikh Muntajib Shaikh Maula Bagwan ..APPLICANT

VERSUS

State of Maharashtra and Another ..RESPONDENTS

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Mr. Faij Khan, Advocate for applicant

Mrs. V.N. Patil-Jadhav, A.P.P. for respondent no.1 – State

Mr. V.V. Bhavthankar, Advocate for respondent no.2

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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 11th JANUARY, 2023

PER COURT :

1. This is an application under Section 482 of the Code of Criminal Procedure to quash the F.I.R. bearing C.R. No. 395 of 2020 registered with Hingoli City Police Station, Dist. Hingoli for the offences under Sections 420, 468, 471 read with Section 34 of the Indian Penal Code and consequent R.C.C. No. 265 of 2021 pending on the file of Judicial Magistrate First Class, Hingoli.

2. Heard learned counsel for the applicant, learned A.P.P. and learned counsel for Respondent No.2. We have perused the records and considered the submissions advanced by learned counsel for the respective parties.

3. The crime in question against the applicant is registered pursuant to the F.I.R. lodged by Respondent No.2, Senior Clerk of Municipal Council, Hingoli. The allegation against the applicant is that he has fabricated death certificate of one Hussian Miya Abdul Gafur Tambe. It is not in dispute that said Hussain Miya had expired on 18th January, 2006. On the basis of the information given by the applicant, the death came to be registered at Municipal Council, Hingoli. According to the complainant, said Hussian Miya had expired at Saudi Arabia and not at Hingoli as reported by the applicant. It is further stated that on the basis of the said death certificate, a change report was filed which was accepted on 06th January, 2007.

4. The applicant is not a trustee of the Trust and he has not in any manner benefited from the change report. The F.I.R. as well as other material on record collected in the course of investigation does not indicate that the applicant herein had deceived or induced any person to deliver any property or that he had made a false document with an intention to cause damage or injury to public or any person. The F.I.R. does not disclose any of the ingredients of cheating or forgery as defined under Sections 415 and 463 I.P.C.

5. Having perused the records, in our consideration the F.I.R. as well as the material collected in the course of investigation does not disclose any cognizable offence. Hence, in our considered view, the present case is

covered by illustrations 1 and 3 as laid down in ***State of Haryana Vs. Bhajan Lal and Others, 1992 AIR 604.*** Under these circumstances, we are of the view that continuation of these proceedings would be sheer abuse of the process of Court.

6. Hence, the application is allowed in terms of prayer clause (B) and (B1). Consequently, F.I.R. bearing C.R. No. 395 of 2020 registered with Hingoli City Police Station, Dist. Hingoli for the offences under Sections 420, 468, 471 read with Section 34 of the Indian Penal Code and consequent R.C.C. No. 265 of 2021 pending on the file of Judicial Magistrate First Class, Hingoli stand quashed.

(R.M. JOSHI, J.)

SSD

(SMT. ANUJA PRABHUDESSAI, J.)