

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 967 OF 2019

1. Mahadev Babruwan Paule
2. Bhausahab Dadarao Nisargandh
3. Taty Shraavan Gadage
4. Vijaykumar Raghunath Hirve ...Applicants

versus

1. The State of Maharashtra
2. Jitendra Satyabhan Potbhare ...Respondents

.....
Mr. M.V. Thorat, advocate for the applicants
Mr. R.B. Bagul, A.P.P. for respondent No.1
Ms. Nirmala K. Helkute, advocate for respondent No.2 (appointed).
.....

**CORAM : R. G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 28th JUNE, 2023.**

PER COURT :-

1. Heard.
2. This is an application for quashment of F.I.R. No. 40 of 2019 registered with Ambajogai police station, district Beed for the offences punishable under Sections 341, 385, 506 and 34 of I.P.C.
3. The learned advocate for the applicants would submit that the false and concocted F.I.R. has been lodged as a counter blast, since the applicants were consistently asking certain information under the Right to Information Act, 2005, about misappropriation of funds

committed by the informant, Gram Sevak. He would further submit that not less than 40 appeals under the Right to Information Act have been filed by the applicants herein before the F.I.R. came to be registered against them. He therefore, urge for grant of application.

4. The learned A.P.P. and learned advocate appointed to represent the cause of respondent No.2, on the other hand, would submit that the averments in the F.I.R. make out involvement of the applicants in the crime in question. There are statements of witnesses reinforcing the same. According to them, there is prima facie material to proceed against the applicants. They therefore, urge for rejection of the application.

5. We have perused the F.I.R., the relevant police papers and considered the submissions advanced by the learned advocates for the parties. The record indicates that the applicants, on number of occasions asked for certain information under the Right to Information Act, about the misappropriation of public funds made by the informant/respondent, Gram Sevak. Since the information was not supplied, the applicants have preferred not less than 40 appeals under the Right to Information Act. These facts precede the F.I.R. in question. The applicants have therefore, every reason to contend that the false and concocted F.I.R. has been registered against them.

6. It is true, if the F.I.R. is read as it is, offence may be made out,

but the same is to be appreciated in the light of the facts stated herein above. The so called eye witnesses were none other but is the driver of the informant and one who travelled in the informant's car at the relevant time. As per the case averred in the F.I.R., the applicants came on four motor bikes and intercepted the informant's car. Whereas the supplementary statement of the informant states that the applicants had come together on feet. This variances causes serious doubt as to the veracity of the averments made in the F.I.R. We are of the view that the F.I.R. must have been filed only with a view to take vengeance on account of the applicants to have asked for certain information under the Right to Information Act. Allowing the applicants to face the prosecution, in the given circumstances, would be an abuse of process of Court. The application is therefore, allowed in terms of prayer clause "A" and disposed of.

7. Fees of Ms. Nirmala Helkute, the learned advocate, appointed to represent the cause of respondent No.2, is quantified at Rs.6000/-.

(SANJAY A. DESHMUKH, J.)

(R. G. AVACHAT, J.)

rlj/