

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

CRIMINAL APPLICATION NO.1614 OF 2013

**VIMAL DAGDUBA BANSODE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. M. S. Karad, Advocate h/f Mr. S. S. Thombre, Advocate for the applicants

Ms. V. N. Patil-Jadhav, APP for the respondent/State

Mr. R. V. Gore, Advocate for respondent No.3.

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

DATE : 21ST FEBRUARY, 2023

PER COURT :-

1. At the outset learned counsel for the applicants seeks leave to amend the application and prayer clauses 'B' and 'C'. Leave granted. Amendment to be carried out forthwith.

2. By this application, filed under Section 482 of Cr.P.C., the applicants have sought to quash the first information report M. Case No. 173/2013 registered at City Chowk Police Station, Aurangabad and R.C.C. No. 459/2013 pending before the JMFC, aurangabad for the offence Sections 420, 120(B), 463, 467, 468 read with Section 34 of the Indian Penal Code.

3. This Court by order dated 5th April, 2013 stayed further investigation in the said crime. It is stated that the said order is operating till date. In view of the said order, no further investigation has been carried out.

4. Heard learned counsel for the applicants and learned counsel for the respondent No.3. We have perused the records and considered the submissions advanced by learned counsel for the respective parties.

5. In the year 2012 the Election Commission had declared election programme for the Zilla Parishad, Aurangabad. The applicants as well as respondent No. 3 contested the said election. The applicant No.1 submitted caste certificate allegedly issued by the Competent Authority. The applicant No.1 has been declared to be a winning candidate. The respondent No. 3 lodged a complaint alleging that the applicant No.1 had submitted a forged and fabricated caste certificate. Since the police did not register the crime, the respondent No.3 filed an application under Section 156(3) of the Code of Criminal Procedure. Pursuant to the order dated 20th March, 2013 passed by learned Judicial Magistrate First Class 16th, Aurangabad, crime being registered as M. Case No. 173/2013 came to be registered against the applicants for offences under Sections 420, 120(B), 463, 467, 468 read with Section 34 of the Indian Penal Code.

6. The records reveal that the respondent No.3 had also filed an Election Petition No. 2/2012 before learned District Judge, Aurangabad wherein one of the grounds was that the applicant No.1 had furnished forged and fabricated caste certificate. The said petition has been rejected and the said order was challenged before this Court in Writ Petition No. 5527 of 2014 which came to be disposed of by order dated 27th January, 2016. This Court had directed the Caste Scrutiny

Committee to determine the validation claim of applicant No.1 in accordance with the provisions of law. Subsequent to this order the Caste Scrutiny Committee, by order dated 8th September, 2016 has validated caste claim of the applicant No.1.

7. A perusal of the records indicate that the caste certificate which was issued by the Competent Authority has been validated by the Caste Scrutiny Committee. This fact would itself substantiate that the certificate which was produced by the applicant No.1 was issued by the competent authority. This being the case, the uncontroverted allegations in the FIR do not disclose cognizable offence as against these applicants. In such circumstances, allowing further investigation or subjecting the applicants to face criminal trial will be an abuse of the process of Court.

8. Hence the application is allowed in terms of prayer clause 'B'. The first information report M. Case No. 173/2013 registered at City Chowk Police Station, Aurangabad and R.C.C. No. 459/2013 pending before the JMFC, aurangabad for the offence Sections 420, 120(B), 463, 467, 468 read with Section 34 of the Indian Penal Code is hereby quashed.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

ssp