



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

CRIMINAL APPLICATION NO.1775 OF 2023

Sunil s/o Kishanrao Koknare ... **APPLICANT**

VERSUS

The State of Maharashtra & anr. ... **RESPONDENTS**

.....
Mr. S.B. Bhapkar, Advocate for applicant
Ms Kavita R. Jamdhade, A.P.P. for respondent No.1.
.....

**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

DATE : 11th DECEMBER, 2023

ORAL ORDER (PER SANJAY A. DESHMUKH, J.) :

This is an application for quashment of F.I.R. bearing Crime No.0115/2023, registered with Deglur Police Station, District Nanded for the offences punishable under Sections 420, 465, 471 read with 34 of the Indian Penal Code and the consequential charge sheet bearing No.98/2023.

2. The informant, Block Development Officer of Panchayat Samiti, Deglur lodged the report against the Village Development Officer, alleging that on 2/9/2023 Shri Shrinivas Panhale, Assistant Police Commissioner, Worli Division, Mumbai gave complaint that Smt. Saidabai Hanna Panhale is running liquor

shop at Tamlur in House No.156 and she demanded transfer permission of that shop to another place (specific place not mentioned). The meeting of Village Panchayat was conducted on 26/1/2019. There were 20 resolutions which were considered and sanctioned. However, Resolution No.21 was not put for consideration and it was neither allowed nor rejected. In that meeting, Kisan Anandrao Khandekar was Deputy Sarpanch. The 21st Resolution was about allowing to transfer the place of that liquor shop from House No.156. That Resolution was signed by Deputy Sarpanch Kisan Khandekar, but it was not signed by Secretary M.D. Waghmare, who was Head Master of Zilla Parishad School, Tamlur. It is further alleged that, Kisan Khandekar was not knowing all the procedure, however, he signed the same. The applicant, without ensuring legality of that resolution, issued certified copy of it, which was false and fabricated. Therefore, the report was lodged against the applicant.

3. Learned counsel for the applicant pointed out the proceedings of the Village Panchayat at Page No.91 of the Paper Book and also Resolution No.21. Copy of the Resolution is at Page No.103 of the Paper Book. He submitted that, there is no such element of cheating and fabricating such resolution as alleged by the informant in the report. He, therefore, submitted to quash the report and the charge sheet.

4. Learned A.P.P. strongly opposed the application. She pointed out the statement of Dayanand Suryawanshi, in which it is pointed out that, only 37 persons were present and the quorum was not completed. She submitted that, it was not the duty of the applicant to issue such certified copy of the Resolution No.21, which was not passed in the special meeting held on 26th January, as alleged by the informant in the report. She lastly submitted to reject the application.

5. Perused the report and the charge sheet. It is admitted fact that, the applicant issued certified copy of Resolution No.21. However, while passing other Resolutions No.1 to 20, only 37 members were present and in the presence of those 37 members, all those Resolutions were passed. What is alleged is that, the applicant has issued certified copy of that Resolution. It is nowhere pointed out that there was any ill-intention on the part of the applicant to fabricate such Resolution No.21. The Sarpanch of the Village Panchayat, who has also signed that certified copy, is also not made an accused. Further, the applicant was not present for that meeting. Considering all these reasons, the ingredients of alleged fabrication of false documents and cheating are not establishing to proceed against the applicant under Sections 420, 465, 471 read with Section 34 of the Indian Penal Code. In such

facts and circumstances, to proceed against the applicant on such insufficient material would be certainly abuse of process of the Court. We are, therefore, inclined to allow the application. Therefore, the application is allowed in terms of prayer clauses (B) and (B-1) to the extent of the present applicant.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

fmp/-