

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

CRIMINAL APPLICATION NO. 1872 OF 2020

1. Dr. Mohammad Tahermiya s/o Mohammad
Wajirmiya Saudagar @ Tahermiya
Wajirmiya Saudagar
Age: 74 years, Occu.: Agri.,
2. Sabera Ruhi Tahermiya Saudagar
Age: 68 years, Occu.: Household
3. Abrar Sohail Mohammad Tahermiya Saudagar
Age: 43 years, Occu.: Service

All R/o Kuchcharvata, Jalna,
Tq. & Dist. Jalna

..APPLICANTS

VERSUS

1. State of Maharashtra
Through Investigation Officer,
Gondi Police Station,
Tq. Ambad, Dist. Jalna
2. Dropadabai Rambhau Lokhande
Age: 51 years, Occu.: Nil,
R/o Prayag Nagar, Plot No.79,
Ambad Road, Tq. & Dist. Jalna

..RESPONDENTS

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Mr. R.V. Gore, Advocate for applicants
Mrs. V.N. Patil-Jadhav, A.P.P. for respondent no.1 – State
Mr. A.D. Khot, Advocate for respondent no.2 (appointed)

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

DATE : 30th JANUARY, 2023

PER COURT :

1. At the outset, learned counsel for the applicants states that the Applicant No.1 has expired. He seeks leave to delete the name of Applicant No.1 from the cause title of the application.
2. Leave granted. Amendment to be carried out forthwith.
3. Heard finally at admission stage with consent of learned counsel for the respective parties.
4. By this application under Section 482 of Code of Criminal Procedure, the applicants have sought to quash the F.I.R. bearing C.R. No. 384 of 2020 registered at Gondi Police Station, Dist. Jalna and consequent R.C.C. No. 98 of 2022 pending on the file of the Judicial Magistrate First Class, Ambad for the offences punishable under Sections 420, 408, 467, 468 and 471 read with Section 34 of the Indian Penal Code.
5. The deceased - Applicant No.1 was the founder President and Member of the Executive Committee of Godavari Shikshan Sanstha, Gondi and the Applicant No.2 is the President of the said institution which runs Godavari Primary School, Gondi and the Applicant Nos.3 is the Headmaster of the said school. Respondent No.2 was an Assistant Teacher in the Akram

Fatema Madhyamik Kanya Shala, Kuchcharwata, Old Jalna. The said school was also run by the aforesaid institution. The services of Respondent No.2 were terminated on 07th February, 2020 in view of the report submitted by the inquiry committee and resolution passed by the managing committee in accordance with the rules of the Maharashtra Employees of Private School (Condition of Services) Rules, 1981.

6. The Respondent No.2 had filed a report alleging that the Applicant No.3 – Headmaster of the said school had committed offence punishable under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the same was registered as Crime No. 415 of 2019 on 11th September, 2020 at Gondi Police Station. It is alleged that the Applicant No.3 was absconding in Crime No. 415 of 2019 and that though he had not attended his duties in the school from January 2020 till March, 2020, he had fabricated the attendance register and submitted pay bills with Pay Unit, Jalna and received the salary and thereby cheated the Government. On the basis of the said report lodged by the Respondent No.2, the aforesaid Crime No. 384 of 2020 came to be registered against the applicant for having committed the aforesaid offences.

7. The Block Education Officer, Panchayat Samiti, Ambad had visited the school on 11th March, 2020, verified the muster roll and attendance register and submitted the report dated 15th July, 2020 to the Education

Officer (Primary) Zilla Parishad, Jalna stating that the records were not fabricated and the same were maintained as per the rules. The said report reveals that the Applicant No.3 had attended the school except the period from 05th May, 2020 till 12th March, 2020 during which period he was on leave.

8. The records reveal that the Respondent No.2 had claimed that the Applicant No.3 had absconded only because he was not arrested by the police authority. It is not in dispute that he was not declared as an absconder and no proceedings were initiated against him under Section 82 Cr.P.C. Apart from the vague statement of the Respondent No.2 that the Applicant No.3 had fabricated the attendance register and muster roll, there is absolutely no material on record to indicate that the applicants herein had fabricated the documents within the meaning of Section 463 I.P.C.

9. Having gone through the allegations made in the F.I.R. and the other material collected during the course of investigation, we are of the considered view that even if these allegations are accepted in their entirety, the same would not constitute an offence as alleged. In our considered view, the case in hand is fully covered by the Guideline No.3 in case of *State of Haryana and Ors. vs. Ch. Bhajan Lal and Ors., 1992 AIR 604*. In such circumstances, continuation of the criminal proceeding as against the Applicant Nos. 2 and 3 shall be sheer abuse of the process of Court.

10. In the result, the criminal application is allowed in terms of prayer clauses [B] and [H]. Consequently, the F.I.R. bearing C.R. No. 384 of 2020 registered at Gondi Police Station, Dist. Jalna and consequent R.C.C. No. 98 of 2022 pending on the file of the Judicial Magistrate First Class, Ambad for the offences punishable under Sections 420, 408, 467, 468 and 471 read with Section 34 of the Indian Penal Code stand quashed.

11. Fees of Mr. A.D. Khot, learned counsel appointed to represent Respondent No.2, is quantified to Rs.6,000/- (Rupees Six Thousand).

(R.M. JOSHI, J.)

SSD

(SMT. ANUJA PRABHUDESSAI, J.)