

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1794 OF 2021

1. Nitin s/o Vasant Ashtekar,
Age 56 years, Occu. Service,
Working as Lecturer in Shankarrao
Jawale Patil College, Lohara,
District Osmanabad
2. Bhairavnath s/o Babruvan Mote,
Age 45 years, Occu. Service
Working as Lecturer in Shankarrao
Jawale Patil College, Lohara,
District Osmanabad
3. Vinod s/o Dinkarrao Jawale Patil,
Age 28 years, Secretary of Bhartiya
Rashtriya Shikshan Sanstha,
Working as Office Superintendent in
Shankarrao Jawale Patil College,
Lohara, District Osmanabad

... APPLICANTS

VERSUS

1. The State of Maharashtra
through Police Inspector,
Police Station, Lohara,
Tq. Lohara, Dist. Osmanabad
2. Vinayak s/o Udhavrao Patil,
Age 40 years, Occu. Service
(under suspension), Working as
Lecturer in Shankarrao Jawale Patil
College, Lohara, Dist. Osmanabad
R/o Near Sub-Registrar Office,
Lohara, Tq. Lohara,
District Osmanabad

... RESPONDENTS

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Mr. V.D. Salunke, Advocate with
Mr. M.V. Salunke, Advocate for applicants
Mr. A.R. Kale, A.P.P. for respondent No.1.
Mr. S.B. Jadhav, Advocate for respondent No.2.
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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 6th JANUARY, 2023

P.C. :

With consent, heard finally at the stage of admission.

2. This is an application filed by the aforesaid applicants under Section 482 of the Code of Criminal Procedure for quashing First Information Report bearing Crime No.161/2021, registered with Police Station, Lohara for the offences punishable under Section 381 read with Section 34 of the Indian Penal Code and consequential criminal proceedings being Charge Sheet No.64/2022.

3. Heard learned counsel for the applicants, learned A.P.P. for the State and learned counsel for respondent No.2. We have perused the record and considered the submissions advanced by learned counsel for the respective parties.

4. The aforesaid crime was registered pursuant to the First Information Report lodged by the respondent No.2, alleging that the applicants herein had taken away the Service Books, Account Books, Bank Cheque Book, Inward-Outward Register and Attendance Register from the office of Shankarrao Jawale Patil College, Lohara, District Osmanabad.

5. The applicants No.1 and 2 are the Lecturers of the said Shankarrao Jawale Patil College whereas the applicant No.3 is the Secretary of the Bhartiya Rashtriya Shikshan Sanstha, which is a trust, which is running the said College. The respondent No.2 was also appointed as a Lecturer in the said College. The respondent No.2 had submitted Ph.D. degree and being qualified, he was appointed as Principal of the said College. Subsequently, a complaint came to be lodged, alleging that the said Ph.D. degree issued by Sainath University, Jharkhad, submitted by the respondent No.2 was false and fabricated. The notice was issued to Sainath University, Jharkhand for verification. The institution also issued notice to the respondent No.2, seeking information regarding the Ph.D. degree and further lodged a complaint to the Regional Joint Director of Higher Education, alleging that the respondent No.2 had got permission on the basis of bogus degree. It is stated that the respondent No.2 was suspended on 5/7/2021. Subsequent to his suspension, on 4/8/2021 the respondent No.2 has lodged a complaint against the applicants herein, alleging theft of service record and other documents as stated above.

6. The essential ingredients of theft, as defined under Section 378 is dishonest intention and the term 'dishonest', defined under Section 24 of the Indian Penal Code. In the

instant case, the record reveals that under letter dated 26/4/2021, the applicants had furnished the original documents except the service record to Dr. Babasaheb Ambedkar Marathwada University. In doing so, they have not made wrongful gain or caused wrongful loss to any person. The First Information Report as well as the record, even if accepted as true in its entirety, do not disclose essential ingredients of 'theft' as defined under Section 378 of the Indian Penal Code. In such circumstances, continuance of the criminal proceedings against these applicants would be sheer abuse of the process of law. Hence, the Criminal Application is allowed in terms of prayer clauses (B) and (B-1). Consequently, Crime No.161/2021, registered with Police Station, Lohara for the offences punishable under Section 381 read with Section 34 of the Indian Penal Code and consequential criminal proceedings being Charge Sheet No.64/2022 submitted before the learned Judicial Magistrate, First Class, Lohara and R.C.C. No.57/2022 pending on the file of learned Judicial Magistrate, First Class, Lohara stand quashed.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

fmp/-