

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

CRIMINAL WRIT PETITION NO.1002 OF 2021

Ishwar s/o Kashinath Khune

... **PETITIONER**

VERSUS

The State of Maharashtra & anr.

... **RESPONDENTS**

.....
Mr. Ameya Sabnis, Advocate holding for
Mr. E.S. Murge, Advocate for petitioner
Mr. R.V. Dasalkar, A.P.P. for State
Mr. V.S. Sakhare, Advocate holding for
Mr. S.D. Kaldate, advocate for respondent No.2.
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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

DATE : 30th JUNE, 2023

ORDER :

Heard. This petition has been filed for quashment of F.I.R. bearing crime No.177/2020, registered at Kallam Police Station, District Osmanabad for the offences punishable under Sections 409, 420, 468 and 471 of the Indian penal Code and the consequential proceedings bearing R.C.C. No.219/2021.

2. The petitioner at the relevant time was serving as Sectional Engineer, Panchayat Samiti, Kallam. He is alleged to have misappropriated amount of Rs.1,32,000/-. The allegations are

that, the repair work of Water Pipeline was shown to have been done, for which expenditure of amount of Rs.1,32,000/- was shown. In short, it is the case of the prosecution that, without undertaking the said work, the funds were shown to have been utilised, but actually misappropriated. The petitioner is also alleged to have forged the measurement book.

3. The learned A.P.P. and learned counsel for the informant would submit that, the name of the petitioner figures in the F.I.R. On investigation of the crime, the charge sheet has been filed and the trial can be conducted hereat. They, therefore, urged for dismissal of the petition.

4. Perused the F.I.R. and related papers. True, the name of the petitioner figures in the F.I.R. There are, however, documents to indicate the investigating officer to have made communication to the concerned Deputy Engineer, the higher-up of the petitioner. The Deputy Engineer has informed the investigating officer in writing that, at the relevant time the petitioner was not serving at the place whereat the alleged misappropriation took place. At page 237 of the paper book is the copy of said communication. It has also been informed that the said work was within the limits of some another Group Grampanchayat. The petitioner was no way concerned with the alleged offence.

5. There is one more aspect of the matter. The measurement book was seized. The specimen handwriting of the petitioner was obtained. Both the documents were submitted to handwriting expert for his opinion. The expert's opinion neither supports nor is against the petitioner or the State. As such, the handwriting expert's opinion does not further the prosecution case. In our view, there is nothing to suggest the petitioner's involvement in the crime in question. Allowing the petitioner to stand the trial would, therefore, be an abuse of process of Court. In the interest of justice also, the Writ Petition deserves to be allowed. Hence the order :

ORDER

(i) The Criminal Writ Petition is allowed.

(ii) The F.I.R. bearing crime No.177/2020, registered at Kallam Police Station, District Osmanabad for the offences punishable under Sections 409, 420, 468 and 471 of the Indian penal Code and the consequential proceedings bearing R.C.C. No.219/2021 are quashed as against the present petitioner.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

fmp/-