

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

CRIMINAL APPLICATION NO.2150 OF 2020

**UJJAWALA W/O. VIJAY SONWANE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

Mr. S. G. Kawade, Advocate for the applicants
Mr. S. D. Ghayal, APP for the respondent/State
Mr. V. M. Vibhute, Advocate for respondent No. 2.

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

DATE : 20th JANUARY, 2023

PER COURT :-

1. With consent, heard learned for the petitioner, learned APP for the respondent/State and learned counsel for respondent No. 2, finally at the stage of admission.

2. This is an application under Section 482 of the Cr.P.C. to quash FIR bearing No. 0105 of 2020 registered with Police Station Paradh, Tq. Bhokardan, Dist. Jalna and R.C.C. No. 388 of 2020 pending before the JMFC, Bhokardan for offence punishable under Section 3 of Prevention of Damage to Public Property Act, 1984.

3. Learned counsel for the applicants submits that the applicant No.1 was the Sarpanch of village panchayat. A crime has been registered

against her and her brother-in-law i.e. the applicant No.2 alleging that they had demolished the public premises i.e. the room belonging to the panchayat. Learned counsel for the applicants states that in the year 2014, the Panchayat had taken a resolution to demolish the said structure since it was in dilapidated condition. He submits that the structure was not demolished and it collapsed in the year 2019 and this is evident from material on record which forms part of the charge-sheet. He states that FIR as well as other material on record does not disclose the involvement of the applicants in the aforesaid crime and such circumstances continuation of criminal proceedings will be an abuse of the process of Court.

4. Per contra the learned APP and learned counsel for respondent No.2 submit that the FIR as well as the other material on record indicate that the applicants have demolished the structure without seeking prior permission from the concerned authorities and by misusing her position and misappropriated the material of said building. It is submitted that the FIR prima facie discloses offence against both the applicants and this is not the fit case to exercise discretionary powers under Section 482 of the Cr.P.C.

5. We have perused the record and considered the submissions advanced by the learned counsel by respective parties. The only question

for our consideration is whether the first information report and the other material on record collected in the course of the investigation discloses cognizable offence as against these applicants.

6. It is alleged in the first information report dated 7th May, 2020 that few months ago the applicant No.1 and her brother-in-law have demolished the government premises without obtaining prior permission and following due process and procedure. In this regard the record reveals that in the year 2014 the panchayat had taken a resolution that the said room which was constructed in the year 1960 was in dilapidated condition and was likely to collapse at any time. It is further stated therein that the said room was used as Anganwadi and there was danger to the lives of a small children. Panchayat had, therefore, decided to demolish the said room. The panchnama drawn in the year 2019 reveals that the said premises had collapsed on the midnight of 17th September, 2019 and that no person was injured in the said mishap. The resolution dated 15th August, 2014 as well the panchnama dated 19th September, 2019 clearly indicate that the premises were not demolished by the applicant No.1 but collapsed on 17th September, 2019. The complainant has vaguely stated that the applicants had sold the material of the said building. Learned APP states that though the case has been investigated there is no material to

substantiate the said charge or allegation.

7. Considering the totality of facts and circumstances, in our considered view, the uncontroverted contents of the first information report and the other material collected in the course of the investigation do not disclose commission of cognizable offence. The case is, therefore, squarely covered by illustration 3 in the case of ***State of Haryana and others Vs. Ch. Bhajan Lal and others*** reported in ***(1992)3 SCR 735 (SC)***. In such circumstances it is imperative to exercise powers under Section 482 of Cr.P.C. to prevent abuse of the process of Court.

8. In the result, application is allowed. The FIR bearing No. 0105 of 2020 registered with Police Station Paradh, Tq. Bhokardan, Dist. Jalna and R.C.C. No. 388 of 2020 pending before the JMFC, Bhokardan for offence punishable under Section 3 of Prevention of Damage to Public Property Act, 1984 stand quashed.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

ssp