

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

CRIMINAL WRIT PETITION NO. 1646 OF 2022

Shivaji Bhagwanrao Chate
Age-42 years, Occ : Agriculture & Service,
R/o Tambwa, Tq. Kaij,
District Beed.

..APPLICANT

-VERSUS-

1. The State of Maharashtra
Through the Police Inspector,
Kaij Police Station, Tq. Kaij,
Dist. Beed.
2. Smt. Gayabai Ramdhanrao Chate
Age 51 years, Occ : Household,
R/o Tambwa, Tq. Kaij,
Dist. Beed
at present residing at
Shikshan Colony, Beed Road,
Kaij, Tq. Kaij, Dist. Beed.

..RESPONDENTS

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Mr. V.D. Hon, Senior Advocate i/b Mr. Ashwin V. Hon & Mr. M.S. Adate,
Advocate for petitioner.
Mr.A.R. Kale, APP for Respondent No.1 – State.
Mr.G.L. Kedar, Advocate for respondent No.2.

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

**RESERVED ON : 8th NOVEMBER, 2023
PRONOUNCED ON : 10th NOVEMBER, 2023**

ORDER (Sanjay A. Deshmukh, J.):-

. This petition is filed for quashing the First Information Report

(FIR) bearing Crime No.0467 of 2022 registered with Kaij Police Station, Dist. Beed for the offence punishable under sections 420, 465, 467, 468, 471 of the Indian Penal Code and the consequential charge-sheet bearing Regular Criminal Case No. 135 of 2023 pending before the Judicial Magistrate, First Class, Kaij, Dist. Beed.

2. Informant in her report averred that she is President of Kai. Yeshwantrao Chate Shikshan and Tantrik Prashikshan Sanstha, Tambava, Dist. Beed. The petitioner was Secretary of that institution. He fabricated resignation of petitioner and other two members and submitted the change report before the Assistant Charity Commissioner and got sanctioned behind the back of the informant. Therefore, the informant lodged the report against him.

3. The petitioner contended that he is falsely implicated in the crime. The petitioner and other two members of the Managing Committee of that institution voluntarily gave resignation, which was accepted in the meeting by passing necessary resolution. Change report was again accordingly forwarded to the Assistant Charity Commissioner. Considering the affidavit of the informant and other two members submitted before the authority and the change report was accepted. It is not objected by respondent no.2 that time. Due to personal dispute, the petitioner is implicated in the false crime.

4. The learned senior advocate for the petitioner submitted that due to the personal dispute between the informant and petitioner, false report is submitted by the informant. The resignations were accepted by the authorities before three years and report is lodged after thought. Alleged opinion of the handwriting expert is not legal and correct, which was privately done by the informant. Statements of witnesses show that the petitioner is falsely implicated in the crime. Therefore, he prayed for quashing the FIR and R.C.C. No.135 of 2023.

5. The learned APP for the State and learned advocate for respondent no.2 strongly opposed the petition. They contended that the petitioner fabricated the documents of resignations of the informant. There is prima facie strong evidence against the petitioner. There is report of the handwriting expert. They lastly submitted to reject the application.

6. Perused the charge-sheet. The statements of witnesses, particularly other two members of the institution show that they have no any grudge about their resignations against the petitioner. Though the informant claimed that she is President of the institution, she did not place any documentary evidence showing her acts that she continuously worked as President of that institution. The expert's opinion i.e. handwriting expert

shows that signature of the informant is not matching with the signature of her application of resignation, but the said opinion is produced on record by the informant by submitting it to the handwriting expert privately. Therefore, handwriting expert's opinion is prima facie not legal and it cannot be safely relied upon. Considering all these aspects, there is absolutely no prima facie material to proceed against the petitioner. It would be abuse of process of Court, if the petitioner is compelled to face the trial on such insufficient and illegal material. The application, therefore, deserves to be allowed.

7. For the reasons discussed above, the arguments of the learned APP for State and the learned advocate for respondent no.2 are not acceptable in this regard. Hence the following order :-

ORDER

- (i) The Writ Petition is allowed in terms of prayer clauses "B" and "BB".
- (ii) No costs.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

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