

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

985 CRIMINAL WRIT PETITION NO.1500 OF 2021

**RAVINDRA VITTHAL PUJARI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioner : Mr. Sonavane Narendra D.
APP for Respondent Nos. 1 & 2 : Mr. S.J. Salgare
Advocate for Respondent No. 3 : Mr. R.V. Gore

**CORAM : MANGESH S. PATIL &
M. M. SATHAYE, JJ.**

DATE : 21.03.2023

PER COURT :

Heard both the sides.

2. The petitioner is the original informant. He is aggrieved by the fact that in spite of he having specifically mentioned one Tukaram Datta Patil, along with other accused as having committed the crime which was duly registered and enquired into by the respondent No. 3, the latter indulged in manipulation in the statement of petitioner's daughter recorded under Section 161 of the Code of Criminal Procedure on the date the F.I.R. was lodged, thereby pretending as if she was giving a clean chit to that individual.

3. The petitioner seems to have submitted an application before the trial court (Exh. 4) whereby he sought to include not only said Tukaram Datta Patil but even the respondent No. 3 as an accused. The learned Magistrate after noticing the aforementioned facts and on the basis of the affidavit of petitioner's daughter directed to add Tukaram Datta Patil as an accused No. 7 but refused to add the respondent No. 3 for want of sanction under

Section 197 of the Code of Criminal Procedure.

4. It appears that the petitioner repeatedly requisitioned the respondent no. 2-Superintendent of Police who assigned the enquiry to his subordinate and on the basis of that report he rejected the petitioner's application by the order dated 24.09.2021 which is being impugned in this writ petition.

5. The learned advocate for the petitioner, on instructions, submits that the request of the petitioner was vague and was not indicating a specific crime for which he intended the respondent No. 2 to accord sanction to prosecute the respondent No. 3. Since it was constituting an independent offence, the learned advocate submits that the petitioner would prefer a comprehensive application to the respondent No. 2 seeking a fresh sanction.

6. The learned A.P.P. and the learned advocate for the respondent No. 3 would submit that a thorough enquiry was conducted by the officer of the rank of Sub Divisional Police Officer, who submitted a detailed report, on the basis of which the sanction has been refused by the respondent No. 2.

7. We have gone through the report relied upon by the respondent No. 2. The impugned communication of the respondent No. 2 dated 24.09.2021 does not specifically demonstrate about he having applied mind to the facts and circumstances. Simply in one line and referring to the report submitted to him he has refused to accord sanction under a belief that the sanction was being solicited to implead the respondent No. 3 in the array of the accused in the crime pending before the trial court. It is abundantly clear that if at all the respondent No. 3 has committed some crime, it would be an independent offence unconnected with the offence under trial. In any case, the respondent No. 3 could not have been arrayed as an accused in the matter pending before the trial court.

8. Considering the aforementioned aspects, in our considered view the impugned communication is not sustainable in law. Simultaneously even

the petitioner's request seeking sanction itself being vague, we dispose of the Criminal Writ Petition by setting aside the impugned communication and permitting the petitioner to tender a fresh and comprehensive application disclosing for what offence he intends to prosecute the respondent No.3 and solicit sanction from the respondent No. 2. If any such application is tendered by the petitioner, the respondent No. 2 shall consider it on its own merits uninfluenced by the observations made here in above.

9. The Criminal Writ Petition is disposed of.

(M. M. SATHAYE, J.)

(MANGESH S. PATIL, J.)

mkd/-