

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.590 OF 2023

Baba Appa Khavare	Petitioner
Versus	
The State of Maharashtra	 Respondent

Mr. Balasaheb Ligade, Advocate i/b. Drupad S. Patil, for the
Petitioner.

Mr. Arfan Sait, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 19th DECEMBER, 2023

P.C. :

1. The Petitioner has challenged the order dated 13.12.2022 passed by the Additional Sessions Judge, Gadhinglaj, District-Kolhapur rejecting Criminal Revision Application No.12/2022. The Revision Application arose out of the order passed by the learned Judicial Magistrate, First Class (1st Court), Chandgad in R.C.C. No.31/2018. By the order dated 9.6.2022, the learned Magistrate rejected the Petitioner's application for discharge. Said order was confirmed by the Revisional Court, as mentioned earlier.

2. The Applicant is facing the charges under Sections

465, 466, 471 read with 34 of IPC.

3. Heard Mr. Balasaheb Ligade, learned counsel for the Petitioner and Mr. Arfan Sait, learned APP for the Respondent-State.

4. The prosecution case is that the Petitioner was working as Gramsevak with Mangaon Grampanchayat. The accused No.2 was the Senior Clerk. Both of them in collusion with the accused No.3 Sampada Pravin Gudvalekar nee Khandekar issued a birth certificate showing her date of birth as '18.10.1992'. It was based on a forged entry in the register. Her correct date of birth is '18.10.1995". Thus, they have committed this offence together.

5. The FIR was lodged by Nayab Tahsildar Rajaram Jhajari vide C.R. No.22/2018 at Chandgad police station on 23.2.2018 making the same allegations. The investigation was carried out. The statements of various witnesses were recorded. The concerned registers and the two birth certificates, both issued by the present Petitioner, were seized. They are forming part of the charge-sheet.

6. Learned counsel for the Petitioner submitted that he was working with the same Grampanchayat between the period 2013 to 2018 only. He was not concerned for maintaining the registers regarding births in that area in the year 1992 or 1995. He has merely acted upon the entries from the register and it is also the prosecution case that those registers do have those entries and, therefore, he has not committed any offence. He further submitted that the explanation offered by the accused No.2 shows that the birth certificates were prepared by the said accused No.2 in his handwriting and the present Petitioner has merely signed those certificates. He submitted that the Petitioner, therefore, has not committed any offence. He submitted that the birth certificates were based on the information maintained in those two registers.

7. Learned APP opposed these submissions. He invited my attention to the charge-sheet and in particular to two birth certificates and the relevant pages of the registers maintained in the year 1992 and 1995. He submitted that there is clear interpolation of entry No.246 around month of October, 1992. The correct entry which was 246 was changed to 246/1

pertaining to some other person. The forged entry was made below entry No.245 and it was an interpolation. He submitted that both the certificates were issued within a short span of around sixteen days and the Petitioner himself had not expressed any suspicion or had not raised any doubt while issuing those certificates. He further submitted that the registers were in the custody of the present Petitioner and, therefore, he was rightly the prime accused in the present case.

8. I have considered these submissions. The two certificates were issued in respect of the accused No.3 by the present Petitioner. The first certificate was dated 1.2.2018. It was issued under the signature of the Petitioner. The date of registration of the birth is mentioned as '22.10.1992' and the date of birth of accused No.3 is mentioned as '18.10.1992'. The second birth certificate was dated 17.2.2018. The date of registration of the birth was mentioned as '31.10.1995'. The date of birth of accused No.3 was mentioned as '18.10.1995'.

9. The prosecution case is that the accused No.3 had used the birth certificate showing her birth date as '18.10.1992'

for making an application for the post of Police Patil. Her correct date of birth was '18.10.1995', but, to fit in the age bracket the wrong date of birth and for that purpose a forged document was used. The charge-sheet, as rightly pointed out by learned APP, shows the extracts of two registers maintained in October, 1992 and October, 1995.

10. The register of the year 1995 correctly shows the entry of the accused No.3's name at entry No.240. According to the prosecution this is the correct entry and the register was maintained properly. There is no interpolation in the entry or other entries in the extract of that particular register. The offence is committed in respect of the register maintained for October, 1992. Below the entry No.245, a forged entry in the name of the accused No.3 is interpolated showing her date of birth as '18.10.1992'. In the sequence, the earlier entries were for the dates 20th October, 21st October, 22 October 1992. The extract is shown by learned APP of 1995. The subsequent entries No.247 onward also show the subsequent dates of 25.10.1992. Apart from that, on the next page, there appears entry No.246 as the original entry. However, it is manipulated

and it is shown as 246/1. Thus, the entries are manipulated cleverly and deliberately so that entry No.246 is inserted on the earlier page.

11. From this record it is quite apparent that there was forgery in the register itself based on which a certificate showing date of birth of accused No.3 as '18.10.1992' was issued.

12. The registers maintained with the Grampanchayat were available to the Petitioner in his capacity as Gramsevak. He was handling those registers. The birth certificates were also issued after referring to the registers. Therefore, it is quite apparent that those registers were available to the Petitioner. He has issued two birth certificates showing different dates of birth within a span of 16 days. He has not raised any suspicion.

13. The second certificate was issued because a complaint was made suspecting the genuineness of the date of birth mentioned in the first certificate. The Petitioner, on his own, had not taken any steps to verify as to why there were two different dates of birth in respect of the same person.

14. Thus, at this stage, there is sufficient material against the present Petitioner for framing of the charges. I do not find any infirmity in the impugned orders. At this stage, it is not possible to record a finding in favour of the Petitioner that he has not committed or he is not concerned with the commission of said offence. With the result, the Petition cannot be allowed and is accordingly dismissed.

(SARANG V. KOTWAL, J.)

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