

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.330 OF 2023

APPLICANT : Rangnath S/o. Tryambak Dharbade, aged about 40 years, occupation: Service, R/o. C/o. Anilkumar Choudhari Vidyanagar T.B. Toli, Gondia.

..VERSUS..

NON APPLICANT : State of Maharashtra, Through (A.C.B.), Kudva Road, Gondia.

Mr P. Naidu, Advocate for Applicant.

Mr V. A. Thakare, APP for Non-Applicant/State.

CORAM : **VINAY JOSHI AND VALMIKI SA MENEZES, JJ.**

DATE : **26th JUNE, 2023.**

ORAL JUDGMENT : **(PER : VINAY JOSHI, J.)**

. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned Counsel appearing for the parties.

2. This is an application under Section 482 of the Code of Criminal Procedure seeking to quash Charge-sheet arising out of Crime No.30 of 2021 registered with the Police Station Gondia (Rural), District Gondia, for the offence punishable under Sections 7 and 12 of the Prevention of Corruption Act,

1988.

3. The applicant seeks to invoke inherent powers of this Court, on the premise that the material collected during the course of investigation falls short to make out a *prima facie* tribal case rather to secure the conviction.

4. At the instance of report lodged by one Uttamchand Mohan Khandekar dated 17.01.2021, an Anti Corruption Department swung into action. It is the case of complainant Khandekar that on 16.01.2021, co-accused Ramsingh Bais (Head Constable) telephonically informed him that an externment order has been passed against him. He stated that the Police will take you out of Gondia and would leave outside the jurisdiction of Gondia District. Co-accused also said that in order to help him in the matter, the complainant should pay Rs.10,000/- for applicant (Police Inspector) and Rs.5,000/- for he himself (Head Constable). After telephonic talk, the complainant being reluctant to pay bribe of Rs.15,000/- has approached to the Anti Corruption Department and on the basis of which, raid was arranged.

5. The Anti Corruption Department decided to verify the demand. In view of that two Panch Witnesses were called. In their presence, there was a telephonic conversation in between complainant and co-accused Bais. In said conversation, there appears to be a demand at the hands of Bais, that is why immediately raid was arranged. In succession, Anti Corruption Department's squad went to the house of co-accused Bais, where the bribe amount was about to be paid. In presence of Panch Witnesses, co-accused made a demand of Rs.15,000/-. It is the prosecution case that while complainant and co-accused Bais were at his house, the applicant (Police Inspector) arrived and explained the procedure of externment to the complainant and left the place. Thereafter, raid was continued in which, co-accused was caught red handed while accepting sum of Rs.15,000/-.

6. Mr Naidu, learned Counsel for applicant would submit that the applicant being a Police Inspector has no role in the alleged monetary demand and acceptance. According to him, Panchnama as well as conversation took place in between complainant and applicant, never conveys about monetary

demand or acceptance by applicant. According to him, it would be a far fetching inference about the involvement of applicant in the crime.

7. We have gone through the Panchanama as well as transcript of the voice recorded conversation in between complainant and applicant at the relevant time. The Panchanama merely bares a reference that the applicant arrived at the house of co-accused explained the procedure of externment and went away. In the light of the said recital, we have meticulously gone through the transcript of conversation, but unable to find any clue about the monetary demand or applicant's involvement in the so called demand made in his name by co-accused Bais. Besides the recital, in Panchanama and transcribed conversation, Mr Thakare learned APP is unable to point out any material to show the involvement of applicant.

8. It reveals that the main allegations of monetary demand and acceptance are against co-accused Bais, rather the verification about the demand was in respect of co-accused Bais. Admittedly, neither when money was demanded nor at

the time when accepted, the applicant was present on the spot. It is difficult to accept that the applicant's visit on the spot to be construed as his active involvement. There is no material even to infer about the component constituting the abetment within the meaning of Section 107 of the I.P.C. The material collected falls short to make out a tribal case against applicant. The allegations even if taken at their face value and accepted in their entirety, do not make out a *prima facie* case of involvement of the applicant. The case of applicant squarely falls in category Nos.1 and 3 of the guidelines laid down by the Hon'ble Supreme Court at para 108 in the decision of *State of Hariyana ..V/s.. Bhajan Lal*, reported in *AIR 1992 SC 604*. Continuation of such trial would be abuse of the process of Court.

9. In view of the above, the criminal application is **allowed**. We hereby quash and set aside the charge-sheet against the applicant Rangnath Tryambak Dharbade arising out of Crime No.30 of 2021 registered with the Police Station Gondia (Rural), District Gondia, for the offence punishable under Sections 7 and 12 of the Prevention of Corruption Act, 1988

and related Special Case bearing No.46 of 2022 pending on the file of District Judge-1, Additional Sessions Judge, Gondia.

10. Rule is made absolute in above terms

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)