



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

CRIMINAL APPLICATION NO. 1035 OF 2022

(Atmaram s/o Sonaji Bodkhe Vs. The State of Maharashtra & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri N.B. Kalwaghe with Shri N.R. Raut, Counsel for the applicant.

Shri A.R. Chutke, Additional Government Pleader for non-applicant no.1.

Shri Raju Kadu, Counsel for non-applicant no.2.

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CORAM : ANIL L. PANSARE, J.
DECEMBER 18, 2023.

The learned Counsel for non-applicant no.2 submits that costs will be paid during the course of the day. The learned Counsel for non-applicant no.2 submits that non-applicant no.2 does not wish to file reply.

2] The contention of the learned Counsel for the applicant is that despite there being an identical complaint filed by non-applicant no.2 in which C-summary was filed in terms of Section 169 of the Code of Criminal Procedure and despite the said report being accepted by the learned Magistrate vide order dated 20/6/2012, non-applicant no.2 has, on 31/8/2012, filed yet another complaint. This complaint has been entertained by the learned Magistrate. According to the learned Counsel for the applicant, the subsequent complaint is not maintainable in absence of challenge to

the order dated 20/6/2012 passed by the learned Magistrate.

3] I find substance in the aforesaid submissions. I have gone through both the complaints. The first complaint was filed on 1/4/2010, which was registered as Miscellaneous Criminal Case No. 109/2010. The Investigating Agency was directed to register the crime and investigate the allegations. The Investigating Agency, vide report dated 2/7/2011, proposed C-summary which came to be accepted on 20/6/2012.

4] Non-applicant no.2, instead of challenging the said report, has filed yet another complaint stating therein that the applicant has managed to get the closure report at the hands of the Investigating Agency. This could be said to be a ground to challenge the order of closure. The subsequent application on identical facts, in absence of challenge to the order dated 20/6/2012, is not maintainable.

5] At this stage, the learned Counsel for non-applicant no.2 seeks liberty to file appropriate proceedings before the learned Sessions Court. The allegation against the applicant was that he has obtained employment by committing fraud and forgery. According to non-applicant no.2, the applicant has forged date of birth certificate. In the certificate issued by Bakliwal Vidyalaya, Washim, his date of birth is mentioned as 19/4/1952, whereas in the certificate issued by Zilla Parishad School, Krushnna, his date of birth is shown as 19/4/1944.

6] It appears that upon complaint being made by non-applicant no.2, the Additional District Collector, Washim has passed an order directing the applicant to refund the amount of remuneration obtained by him. The said amount has been deposited by the applicant.

7] Considering the aforesaid facts, the request could be considered. Hence, the following order :

ORDER

i] The application is allowed.

ii] The impugned order dated 21/7/2022 passed by the learned Additional Sessions Judge, Washim is quashed and set aside.

iii] Non-applicant no.2 is at liberty to approach the learned Sessions Court with appropriate proceedings. If the proceedings are so filed, the learned Sessions Court shall consider the time spent by non-applicant no.2 (from 31/8/2012 till date) in prosecuting the cause.

8] The application is disposed of in the aforesaid terms.

(ANIL L. PANSARE, J.)

Sumit