

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

CRIMINAL APPLICATION (APL) NO.860 OF 2019

APPLICANT : Sachin s/o Shankar Khandwe,
(Accused) Aged about 30 Years, Occu.-Gram
sevak, R/o Dewangan Society Dist.
Yeotmal

..VERSUS..

NON-APPLICANT : 1 State of Maharashtra, Through Police
Station Officer Borgaon Yavatmal
Gramin Distt. Yavatmal.

2 Yogeshwar S/o Kisanrao Udakhe,
Aged about 56 Years, Occu.-service
Assistant Block Development Officer
R/o Sinchan Nagar, Vagdaon Tah. &
Dist. Yavatmal.

Mr A. V. Wankhede, Advocate for Applicant.
Mr N. R. Rode, APP for Non-Applicant No.1/State.
Mr V. M. Kulsange, Advocate for Non-Applicant No.2.

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

DATE : **11th JULY, 2023.**

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

. Heard.

2. By consent of the learned Counsel appearing for
the parties, this Criminal Application is taken up for final
hearing.

Admit.

3. This is an application seeking to quash the First Information Report (FIR) and charge-sheet arising out of crime No.324 of 2017 registered with Police Station Borgaon Yavatmal Gramin, District Yavatmal, for the offence punishable under Sections 420, 408 and 409 read with Section 34 of the Indian Penal Code, 1860.

4. At the instance of enquiry conducted by the Block Development Officer, report has been lodged alleging malpractices in implementing Mahatma Gandhi Rashtriya Gramin Rojgar Hami Yojna. It is alleged that the funds were utilized for digging Well at another place, and thus, Government money has been misused and defrauded.

5. The applicant (accused No.4) was working as a Gram Sevak at Gram Panchayat Borgaon, District Yavatmal, from 20.11.2008 to 19.03.2012. The irrigation Well was sanctioned for Gat No.106 of village Borgaon. Since the funds were not properly utilized, enquiry was ordered and was conducted. The Enquiry Officer has recorded a finding that beneficiary

alongwith Gram Panchayat Secretary Jaishree Bhujade and others were responsible for mismanagement. It is applicant's specific stand that on 29.03.2012, by virtue of transfer, he had handed over the charge to his successor Jaishree Bhujade as a Gram Sevak of Borgaon village.

6. We have gone through the statements of both the Enquiry Officers, which do not specify the active role of the applicant. The prosecution has not pointed out any material, from which the active participation of applicant would be ascertained. No *prima facie* material exist to make out case against applicant. Though enquiry report points towards Jaishree Bhujade, however, she has not been made accused. In absence of specific allegation, chances of conviction are remote and bleak.

7. In view of the above, continuation of the prosecution would be abuse of the process of the Court. Hence, we pass the following order :

ORDER

- i) Criminal application is **allowed**.

- ii) The FIR in Crime No.324 of 2017 registered with Police Station Borgaon Yavatmal Gramin, District Yavatmal, for the offence punishable under Sections 420, 408 and 409 read with Section 34 of the Indian Penal Code, 1860, is hereby quashed and set aside alongwith related charge-sheet.
8. The criminal application is disposed of accordingly.

(VALMIKI SA MENEZES, J.) (VINAY JOSHI, J.)