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

CRIMINAL APPLICATION NO. 204 OF 2020

**DINKAR S/O. GOVINDRAO KAKNATE AND OTHERS
VERSUS
STATE OF MAHARASHTRA AND OTHERS.**

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Mr. S.C. Swami, Advocate for applicants.
Mr. A.V. Lavte, APP for respondent State
Mr. S.K. Mathpati, Advocate for respondent No.2.

**CORAM : SMT. VIBHA KANKANWADI
& S.G. CHAPALGAONKAR, JJ.**

DATE : 5th SEPTEMBER, 2024.

P.C. :-

1. The applicants have approached this court under Section 482 of Cr.P.C. praying to quash the FIR dated 27.10.2017 in crime No. 323 of 2017 registered with Police Station, Chakur as well as proceeding in RCC No. 323 of 2017 pending before J.M.F.C. Chakur, for the offences punishable under sections 420, 467, 468 r/w. 34 of IPC

2, Respondent No.2 herein filed report dated 27.10.2017 with Police Station, Udgir-Rural, alleging that she owns the land in Gat NO. 20/1 admeasuring 88R within the limits of Algarwadi abutting to Latur Nanded road. The son of the applicant namely, Santosh Baburao Karale was working as a Junior Clerk in a school, namely, Dr. Babasaheb Ambedkar Primary and Secondary School run by Janseva Multipurpose society, Anjansoda (Bk.) In the year 2006, the president of the aforesaid

society, under the pretext that son of respondent No.2 would be accommodated on a higher post of Laboratory Assistant, asked her to transfer land to the extent of 44R in the name of the society. After discussion, looking to the offer and better opportunity to her son, she executed registered sale deed at a nominal price of Rs. 1 Lakh in favour of the society. At the same time, a separate bond was executed by President assuring appointment to son of the informant on the post of Laboratory Assistant and payment of consequential salary as per higher pay scale. It is further alleged that although the land of the informant is taken by the society, her son was not appointed on the higher post of Laboratory assistant nor he is paid the salary as per the assurance. When informant asked for re-conveyance of the land, the accused persons refused to do so. Accordingly, respondent No.2 – informant alleges that accused persons have cheated her. On the basis of aforesaid information, crime No. 323 of 2017 came to be registered with police station, Udgir for the offences punishable under sections 420, 467, 468 r/w. 34 of IPC against in all 7 accused persons i.e. trustees and office bearers of the Janseva Multipurpose society.

3. On registration of FIR, investigation progressed and final charge sheet came to be filed against accused persons in the court of JMFC, Chakur vide RCC No. 323 of 2017. Same is pending for trial before the JMFC, Chakur.

4. Mr. S.C. Swami, learned advocate for the applicants submits that applicants are unconcerned with the transaction between respondent No.2 and applicant No.2 i.e. President of the society/trust. The son of the complainant, namely, Santosh was working in the school. However,

the applicants have no knowledge about the transaction between respondent No.2 and President of the Trust nor they are party to such agreement or assurance. The school has been closed down in the year 2016. Till then, the son of the respondent No.2 was working. In case school starts functioning, son of the respondent No.2 can be re-instated in service. The applicants are falsely implicated in aforesaid crime and no offence can be made out against them on the basis of contents of FIR and charge sheet.

5. Per contra, Mr. A .B. Lavte, learned APP and Mr. S.K. Mathpati, learned advocate for respondent No.2 vehemently oppose the application contending that applicants being trustees are responsible for the commission of offence. All the office bearers of Janseva Multipurpose Society/Trust had persuaded respondent No.2 to transfer her land in the name of the society with the assurance that her son Santosh would be accommodated against higher post of laboratory assistant. A separate bond was executed for that purpose. However, after getting transfer of the land at throw-away price, the benefit is not extended to the son of respondent No.2. This is a clear case of cheating. They would, therefore, urge to reject the application.

6. We have considered the submissions advanced by learned advocate appearing for respective parties. We have perused the contents of the FIR and charge sheet. The documents on record clearly depict that respondent No.2 was owner of the land bearing Gat No.20/1 admeasuring 88R situated on Latur Nanded road in the vicinity of village Algarwadi, Taluka Chakur. The respondent No.2 has executed sale deed dated 28.4.2006 in favour of Janseva Multipurpose society as against

consideration of Rs. 1 Lakh. Although the President of the Trust has signed the document on behalf of the trust, the other trustees cannot refuse their involvement in the transaction. The FIR clearly stipulates that the trustees including the applicants have persuaded respondent No.2 to execute the sale deed on assurance that her son would be accommodated against higher post of Laboratory Assistant. The land to the extent of 44R is accordingly transferred in the name of the trust under the registered sale deed for consideration of Rs. 1 Lakh only. Charge sheet contains independent bond executed on 28.4.2006 which is also signed by the President of the Trust, which contains specific assurance that the son of the informant namely, Santosh would be accommodated against the post of Laboratory Assistant and he would be paid salary accordingly.

7. There is nothing on record to show that the Trust has fulfilled its obligation. Whether the applicants being trustees are involved in the aforesaid transactions; whether their complicity in commission of offence can be established on the basis of material in the charge sheet and whether they can be held guilty for the offences, as alleged, are the questions to be answered during trial. Although this Court has powers to quash the criminal proceeding in exercise of inherent powers under Section 482 of Cr.PC. it is trite that such powers can be exercised sparingly, where no offence can be made out against accused persons or prosecution would result in abuse of process of law. In the present case, the allegations in the FIR coupled with documents like sale deed and bond paper depicts the involvement of the applicants. The charge sheet contains statement of Mr. Madhav Awande, who appears to be witness on the sale deed as well as bond dated 28.4.2006. He supports case of

respondent No. 2. Perusal of such material prima facie makes out triable case. In that view of the matter, we find that no case is made out to exercise our inherent jurisdiction under section 482 of Cr.P.C. to quash the FIR and proceeding against the applicants. Consequently, the application stands rejected.

[S.G. CHAPALGAONKAR, J]

[SMT. VIBHA KANKANWADI, J]

grt/-