



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

CRIMINAL APPLICATION NO. 863 OF 2024

**SUNIL RAOSAHEB KHEDKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Advocate for Applicant : Mr. Thombre S.S.
APP for Respondent/State : Mr. V.K. Kotecha

...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 3 MAY 2024

PER COURT :

. Heard both the sides.

2. This is an application under Section 482 of the Code of Criminal Procedure seeking quashment of First Information Report bearing Crime No.0038/2020 and the charge-sheet bearing no. 48/2021 and the consequent Regular Criminal Case No.231/2021 pending on the file of Judicial Magistrate First Class at Paithan District Aurangabad for the offences under Sections 430, 379 of the Indian Penal Code and Sections 92, 93(3), (4), 97 and 98 of the Maharashtra Irrigation Act.

3. It is being alleged that though the permission to lift water granted to the applicant had expired, he and the seven co-accused had drawn water with pump and have committed the crime.

4. It is being pointed out that the petitioner has been accorded permission to lift the water by communication dated 24.05.2021 Exhibit-D for a period of eighteen years subject to certain conditions.

5. In exactly same set of facts, this Court in the matter of applicant's brother Anil who is a co-accused in the same crime has quashed and set aside the crime and the criminal case for the reasons recorded therein. It would be inappropriate to resort to some other reasons in respect of co-accused.

6. For the selfsame reasons as are recorded in the matter of accused Anil Raosaheb Khedkar in the Criminal Application No.1194/2023 by the order dated 26.10.2023, the application is allowed.

7. First Information Report bearing Crime No.0038/2020, charge-sheet bearing no.48/2021 and the consequent Regular Criminal Case No.231/2021 pending on the file of Judicial Magistrate First Class at Paithan District Aurangabad for the offences under Sections 430, 379 of the Indian Penal Code and Sections 92, 93(3), (4), 97 and 98 of the Maharashtra Irrigation Act, are quashed and set aside.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]