



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1255 OF 2024

Ramdas s/o Santaram Gaikwad,
Age-58 years, Occ:Service / ASI
attached to P.S. Cantonment
R/o-38/9 Sector, Dnyaneshwar Colony,
Mukundwadi, Chhatrapati Sambhajinagar.

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through Police Inspector,
Cantonment Police Station,
Chhatrapati Sambhajinagar,
- 2) Deputy Commissioner of Police (H.Q.),
Police Commissionarate,
Mill Corner, Chhatrapati Sambhajinagar,
- 3) Commissioner of Police,
Police Commissionarate,
Mill Corner, Chhatrapati Sambhajinagar.

...RESPONDENTS

...
Mr. Abhijeet O. Mane Advocate and Mr. Omprakash D.
Mane Advocate for Applicant.
Mr. A.D. Wange, A.P.P. for Respondent Nos. 1 to 3.

**CORAM: SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 7th AUGUST, 2024

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed under Section 482 of the

Code of Criminal Procedure for quashing the First Information Report (for short "the FIR") vide Crime No. 96 of 2024 registered with Cantonment (Chavani) Police Station, Chhatrapati Sambhajanagar, for the offences punishable under Sections 406, 409, 420 of the Indian Penal Code.

2. Heard learned Advocate for the applicant and learned APP for respondents.

3. The applicant is serving as Assistant Sub Inspector and was attached to Cantonment Police Station. The said FIR has been lodged by Police Inspector, Chavani (Cantonment) Police Station, Dr. Rajendra Narayan Holkar. It has been stated in the FIR that the applicant was given charge of 'Mohril' (accountant) by the In-charge Police Inspector, Cantonment Police Station and while discharging such duty, it was found that the applicant had withdrawn an amount of Rs.3,04,819/- by cheque on 30th April 2021 and it is not clear to whom that amount has been given. No entry was taken in the cash-book. There is no voucher presented. Therefore, it is stated that applicant had committed misappropriation, so also he has made over-writing in the Government documents.

4. Learned Advocate for the applicant submits that the

applicant had informed the In-charge Police Inspector that he is not a trained person to handle the work of Mohril / accountant. Still the said duty was given with bad intention by the said Police Inspector. Now, the evidence can be seen, which had come in the preliminary inquiry, that the said amount is received by said Manoj Pagare, the then In-charge Police Inspector, through bearer cheque. It was in his personal name. But it appears that he has denied the receipt. At the most said Pagare would be responsible for the said amount and not the applicant. Inadvertence in taking entry in the cash-book will not amount to any offence. The departmental inquiry is still pending and therefore, informant was not justified in lodging the report prior to the conclusion of the inquiry. As such, the said FIR deserves to be quashed and set aside.

5. The applicant admits that the result of the preliminary inquiry is against him and the departmental inquiry is pending. He cannot say that the informant ought to have waited for the result of the departmental inquiry for lodging the FIR. We have considered the police papers and it can be seen from the statements of the witnesses recorded so far, that it is not the question of only the said cheque for Rs.3,04,819/-, but some witnesses have levelled allegations that the present applicant had made over-writing in respect of some other documents also.

Bank account statements have been collected. Thus, the investigation is still going on and therefore, at this premature stage, it would be unjust to exercise our powers under Section 482 of the Code of Criminal Procedure.

6. The Application stands rejected.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/AUG24