



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2337 OF 2023

Kailash s/o Vaijanath Waghmare
Age 42 years, Occu. Service,
At present R/o. Cts No. 15847, Flat No.704,
Adinath Presideo, Ulka Nagri,
Near Krida Sankul, Garkheda,
Taluka and District Aurangabad.

... Applicant

Versus

1] The State of Maharashtra
The Investigation Officer,
Police Station Hingoli (Town),
District Hingoli.

2] Himalay Balkrushna Ghorpade
Age 34 Years, Occu. Service,
R/o. At present N.T.C. Hingoli,
Tehsil Office Hingoli,
Taluka and District Hingoli.

... Respondents

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Mr. Dhananjay M. Shinde, Advocate for the Applicant.
Mr. S. A. Gaikwad, APP for Respondent-State.

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

DATED : 23 AUGUST 2024

PER COURT :-

1. Vide instant application, powers under Section 482 of the Code of Criminal Procedure [Cr.P.C.] are sought to be exercised for quashing FIR bearing No. 258 of 2023 registered at Hingoli City

Police Station, District Hingoli for commission of offence under Sections 420, 409 r/w 34 of the Indian Penal Code [IPC].

2. Appraising this Court about status of the applicant to be working as Awwal Karkun in Tahsil Office, Hingoli, it is further submitted that above crime has been registered alleging irregularity and misappropriation of money in off-line distribution of fair price grains. Learned counsel pointed out that applicant is at the lowest level and all powers are vested in the officers of the rank of District Supply Officer, Tahsildar and Naib Tahsildar. He has neither powers to disburse grain or receive amounts. That, still allegations are levelled against him also along with others against whom recovery is already initiated.

3. Learned counsel pointed out that alleged irregularities were detected from January 2019 to July 2019 and at such point of time, applicant was working at another place and for said reason also, he ought not to have been impleaded. That, moreover there was detailed inquiry by a Committee headed by Sub Divisional Officer which had reached to a finding that whatever irregularities are noticed are by officer holding the post of Naib Tahsildar. That, there was inquiry initiated against those who were found responsible and in the inquiry

against the present applicant, there were no charges of misappropriation of amount or cheating. Copy of said show cause notice is part of present application. Therefore, according to learned counsel, he is innocent. That, even persons to whom excess grains were allotted, have already deposited the difference of amount and they are consequently exempted from criminal proceedings.

4. Lastly he submitted that applicant served on the above post for barely 19 days and therefore he ought not to have been implicated and held responsible. That moreover, Senior Accountant of the office of District Supply Officer also tendered report that from 01.01.2019 to 21.01.2019 applicant is not found to be involved in disbursing excess fair price food grains to any fair price shop license holder. For all above reasons, learned counsel prays for quashment to avoid facing trial.

5. Learned APP strongly opposed pointing out that District Collector had directed detailed inquiry on receipt of communication from the State Government regarding irregularities in the fair price grains distribution system at Hingoli. That, on authorization of Collector, present respondent no.2 conducted detailed inquiry and numerous irregularities are noticed by staff of Supply Department as

well as fair price shop owners. Applicant's involvement is also revealed. Fraud has been detected on Government of huge amounts and therefore, according to learned APP, there is a good case for trial.

6. After considering the submissions of both sides and on going through the FIR dated 29.03.2023 at the instance of one Himalay Balkrushna Ghorpade working as Tahsildar, Hingoli, it is emerging that he was in receipt of communication from Collector, Hingoli dated 24.06.2020 to conduct inquiry and submit report regarding irregularities in fair price grain distribution for the period from January 2019 to July 2019. Therefore, this informant conducted inquiry as well as audit, and has finally reported to the Collector regarding misappropriation of huge amounts. Against several persons, recovery also was said to be initiated. FIR shows that there is involvement of as many as 20 accused persons in misappropriating amounts to the tune of Rs.33,24,680/- during the six/seven months period. Even the Sub Divisional Officer and Accounts Officer, vide communication dated 21.05.2021, had conveyed to the Collector that available record shows that without authorization and powers, food grains are distributed in excess.

7. It is tried to be submitted that against those who were responsible, recovery was already initiated and they have repaid the amount. Mere repayment by those accused would not absolve other persons, who, in the official capacity, have participated in the irregularities amounting to offence. Considering the nature of allegations, this Court does not consider it a fit case to exercise powers under Section 482 of Cr.P.C.. Hence, the application stands rejected.

[ABHAY S. WAGHWASE, J.]

[SMT. VIBHA KANKANWADI, J.]

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