



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.2851 OF 2019**

Shaikh Tasbir s/o Shaikh Dastgir,
Age 36 yeas, Occu. Service,
R/o Akola, Tq. Ambnajogai, District Beed. ..Applicant

Versus

1. The State of Maharashtra
 Through Police Station, Gangakhed
 District Parbhani
2. Balaji Ambaji Sagat
 Age-52 years occ-service.
 R/o. Ajintha Nagar, Near water tank,
 Near Santh Janabai Mahavidhalaya,
 Gangakhed, Dist. Parbhani. ..Respondents

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Mr. A. M. Inamdar, Advocate for the Applicant.
Mr. G. A. Kulkarni, APP for Respondent No.1.
Mr. M. M. Pargane, Advocate for Respondent No.2.

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

DATED : 09th SEPTEMBER, 2024.

ORDER (Per S. G. Chapalgaonkar, J.):

1. The applicant has approached this Court under Section 482 of the Criminal Procedure Code praying to quash the FIR in Crime No.300/2018 dated 28.09.2018 registered with Gangakhed Police Station, Dist. Parbhani for offences punishable under Sections 420, 406 and 409 of the Indian Penal Code and consequential criminal proceeding in RCC No.76/2019 pending before learned Judicial Magistrate First Class, Gangakhed.
2. The respondent no.2 filed written complaint dated 27.09.2018 with Gangakhed Police Station alleging that the State of Maharashtra had floated a scheme extending financial aid for

modernization of Madarsa vide Government Resolution dated 11.10.2013. The scheme is made applicable to eligible Madarsa subject to terms and conditions mentioned therein. The State of Maharashtra received complaints pertaining to lapses in implementation of scheme. Consequently, inspection of Madarsa was caused. The Madarsa run by Hasnain Education Society at Mahboob Nagar, Gangakhed was inspected and it is found that the amount of grants worth Rs.3,10,000/- has been misappropriated. The applicant being President of the Trust has been made accused.

3. Mr. Inamdar, learned Advocate appearing for the applicant submits that financial aid was provided to the school run by Trust for the purpose of construction of toilets, development of library and remuneration of teachers. The said funds were appropriately utilized. The concerned authorities after due inspection, certified utilization of funds. However, due to change in political scenario, false complaint has been filed. He would, therefore, urge that no offence can be made out against applicant on the basis of contents of FIR as well as charge-sheet.

4. Per contra, Mr. Kulkarni, learned APP appearing for the State and Mr. Pargane, learned Advocate appearing for respondent no.2 submit that amount received under beneficial scheme has been misappropriated by the applicant. The inspection of Madarsa was caused by the authorities in the year 2017 and it was noted that Madarsa was not in existence. Consequently, it is a clear case of misappropriation of amount. The applicant being President of the Trust has been made accused and needs to be subjected for trial.

5. We have considered submissions advanced by the learned Advocates appearing for respective parties. Apparently, the State

of Maharashtra had floated Dr. Zakir Hussain Madarsa Modernization Scheme under its Minority Development Department. The funds for specific purpose were made available for modernization of Madarsa. The applicant is President of Trust namely Hasnain Education Society, which was running Madarsa “Babul Ilm Anware Mohammadi at Mahboob Nagar, Gangakhed, Dist. Parbhani”. In pursuance of the proposal submitted by the Trust, the amount of Rs.3,10,000/- was sanctioned for modernization of Madarsa under three heads namely construction of toilets, library and remuneration of the teachers. It is apparent that, the amount so received was to be utilized for designated heads and certificate of utilization was to be submitted to the Government. After utilization of the amount, the certificate of utilization was to be forwarded through District Collector to the Government.

6. In case of complaints as regards to the implementation of scheme, the Education Officer/District Collector were empowered to deal with. In present case, we find that applicant has produced utilization certificate in Format (F) of the scheme and that has been counter signed by Block Development Officer, Panchayat Samiti, Gangakhed. Pertinently, entire charge-sheet nowhere suggests that utilization certificate was false or fabricated. The charge-sheet merely contains police statements of private persons which are recorded in the year 2018, suggesting that Madarsa is not in existence. The charge-sheet stipulates that during the course of inspection it was observed that terms and conditions of scheme have been breached and amount of grants has been misappropriated. However, there is no further elaboration in support of such stipulation.

7. The learned APP attempts to justify FIR and charge-sheet contending that inspection was carried by Education Department of Zilla Parishad, wherein it is found that Madarsa was not in existence. We have perused report of such inspection, which simply suggests that in the year 2017, Madarsa was closed, whereas as per scheme, amount was disbursed during the Financial Year 2014-15 and it was utilized during the said period. Therefore, on the basis of such inspection report, no conclusion can be drawn to make out any offences under Sections 420, 406 and 409 of the Indian Penal Code. In that view of the matter, we are of the considered opinion that, there is no reason to permit continuation of criminal proceeding on the basis of charge-sheet, which is bereft to make out any offence as alleged. Hence, we proceed to pass following order:

ORDER

- a. Criminal Application is allowed.
- b. The FIR vide Crime No.300/2018 dated 28.09.2018 registered with Gangakhed Police Station, Dist. Parbhani for offences punishable under Sections 420, 406 and 409 of the Indian Penal Code and consequential criminal proceeding in RCC No.76/2019 pending before learned Judicial Magistrate First Class, Gangakhed are hereby quashed and set aside.
- c. Criminal Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE