



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

44 CRIMINAL APPLICATION NO. 4089 OF 2023

Manish Omprakash Agrwal,
Age : 47 years, Occu. : Agriculture,
R/o Chinchpada, Tal – Navapur,
Dist. Nandurbar.

... Applicant

Versus

1. The State of Maharashtra,
Through the In-Charge Police Officer,
Navapur Police Station,
Navapur.

2. Rajesh Gangadhar Mhatre,
Age : 52 years, Occu. : Service/Genereal Manager,
At Present residing at J.M. Mhatre
Company Camp, Navi Sawarat,
Tq. Navapur, Dist. Nandurbar.

... Respondents

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Advocate for Applicant : Mr. Dnyaneshwar Suresh Bagul
APP for Respondent No.1-State : Mrs. Kalpalata Bharaswadkar

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

DATED : 05 AUGUST 2024

PER COURT :-

1. Heard learned Advocate for the applicant and learned APP for
the State. Respondent no.2 though served, is absent.

2. Learned Advocate for the applicant has taken us through the impugned FIR and the correspondence that was made by him with the Collector, Talathi and other Revenue Officers, whereupon the Collector and other Revenue officers have imposed penalty to the respondent no.2's company for allegedly carrying out illegal excavation. Learned Advocate for the applicant vehemently submits that since the action has been taken by the applicant against respondent no.2, respondent no.2 has concocted a story and falsely implicated the present applicant.

3. The first and the foremost fact to be noted that appears to be, is that there is dispute between applicant and respondent no.2 in respect of a place on which respondent no.2 is alleged to have been carrying out extension of road, and as per the contention of the applicant, it is the land which is tried to be excavated. Since this is pertaining to disputed questions of fact, they cannot be gone into under the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. A statement is also made that the applicant had never visited the office of respondent no.2, but then, for this purpose also, if the applicant wants to take plea of alibi, then, the burden is on the applicant to prove the same. Definitely there appears to be some orders which have been passed by the Revenue officers

imposing fine on respondent no.2's company, however, whether they can be said to be directly connected to the offences in question, that too, they have taken place on the particular date, will have to be a part of defence that may be undertaken by the applicant. Under such circumstances, we do not find this to be a fit case where we should exercise inherent power of this Court under Section 482 of Cr.P.C.. The application stands rejected.

[ABHAY S. WAGHWASE, J.]

[SMT. VIBHA KANKANWADI, J.]

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