

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

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WRIT PETITION NO.1212 OF 2023

Aniruddha Shivaji Mane & Ors.

.. Petitioners

Versus

The State of Maharashtra & Ors.

.. Respondents

Mr.Ganesh Bhujbal a/w Mr.Atish Mahade for the petitioners.
Mr.Ajay S. Patil, APP for respondent no.1-State.

**CORAM : A.S. CHANDURKAR &
JITENDRA JAIN, JJ.**

DATE : 22nd March 2024

Oral Judgment (Per A.S. CHANDURKAR) :-

. Rule. Rule made returnable forthwith and heard the learned counsel for the parties. Despite service, there is no appearance on behalf of respondent no.2.

2. At the outset, the learned counsel for the petitioners submits that since charge-sheet has been filed, petitioner nos.1 to 4 would approach the Trial Court seeking the prayer for discharge. Liberty is granted to the said petitioners to move the Trial Court for seeking discharge in accordance with law.

3. Insofar as petitioner no.5 is concerned, the learned counsel for the petitioners submits that on a reading of the First Information Report (FIR) dated 27th November 2022, it is clear that petitioner no.5

has no role whatsoever played in the alleged incident. As per the FIR, accused nos.1 to 4 took admissions in BAMS course between the years 2006 to 2010. Petitioner no.5 who is a Principal of the College joined that post on 1st January 2011 and hence at the relevant time when accused nos.1 to 4 took admissions, accused no.5 was not in employment. The only statement made in the FIR is that when accused nos.1 to 4 took admissions at the BAMS course on the basis of the post documents, accused no.5 was the Principal.

4. As per the FIR, accused nos.1 to 4 sought admission at the BAMS course during the period from 2006 to 2010. At the relevant point of time, petitioner no.5 had not joined the said College as a Principal but joined only from 1st January 2011. It is clear that on a reading of the FIR that the admissions were taken by accused nos.1 to 4 prior to the accused no.5 joining the post of the Principal.

5. The learned Assistant Public Prosecutor appearing for respondent no.1 opposes the prayer as made with regard to petitioner no.5. He submits that on a reading of the FIR, reference can be found to the statements that petitioner no.5 was holding the post of Principal.

6. We however find that on a plain reading of the FIR, the alleged incidents have occurred between 2006 and 2010 and petitioner

no.5 had joined on the post of the Principal subsequently. In that view of the matter, we find that continuation of the present proceedings against petitioner no.5 would be a futile exercise that would amount to an abuse of the process of law. We therefore, find that it is a fit case to exercise jurisdiction under Section 482 of the Code of Criminal Procedure, 1973 to quash the proceedings only against petitioner no.5.

7. For the aforesaid reasons, we pass the following order :-

ORDER

(i) C.R. No.102 of 2022 registered with Vaduj Police Station for the offences under Sections 420, 468, 471 read with 34 of the Indian Penal Code against petitioner no.5 is quashed and set aside.

(ii) The petitioner nos.1 to 4 are at liberty to approach the Sessions Court to seek appropriate relief in accordance with law.

(iii) It is clarified that the observations made in this order are only for deciding the case of petitioner no.5 and the Sessions Court is free to consider the matter as against other accused on its own merits.

9. Rule is made absolute in aforesaid terms. No costs.

JITENDRA JAIN, J.

A.S. CHANDURKAR, J.