

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1363 OF 2021**

Subhash Mahadeo Wankhede
Age: 53 years, Occ: Nil
R/o.: Building No.13, Block No.45,
Mhada Colony, Jalgaon 425001.

..Petitioner
(Original Accused)

Versus

1. The State of Maharashtra,
Through Sangli City Police Station,
Dist- Sangli.
(To be served through Public Prosecutor,
Bombay High Court)

2. Shri. Makarand Madhukarrao Deshmukh,
Add: Lokmat Office, Pornima Appt. Second Floor,
Kondaole, laxmipuri, Kolhapur.

..Respondents

Ms. Poonam Ankleshwaria a/w. Adv. Prathmesh Parkar, Adv. Harsh
Dattamani for the Petitioner.
Mr. Ajay Patil, APP for the Respondent-State.

**CORAM : A. S. GADKARI &
SHYAM C. CHANDAK, JJ**

**RESERVED ON : 7th DECEMBER, 2023
PRONOUNCED ON : 8th JANUARY, 2024**

JUDGMENT: [PER- SHYAM C. CHANDAK, J.]:

1. Present Petition is filed under Section 482 of Cr.P.C. seeking to quash the charge-sheet filed *qua* the Petitioner, before the Judicial Magistrate First Class, at Sangali, bearing in RCC No. 251 of 2021, for the offences punishable under Sections 420, 468, 470, 471 read with 34 of the

India Penal Code, 1860.

2. Heard, Ms. Poonam Ankleshwaria, learned Advocate appearing for the Petitioner and Mr. Ajay Patil, learned APP for the Respondent-State. None appeared for Respondent No.2 when the petition taken up for final hearing. Perused the Petition, the documents enclosed and the written notes of arguments submitted for the Respondent No.2.

3. In this Petition Rule was issued on 31st July, 2023, and interim relief was granted. At that time, learned Counsel for Respondent No.2 waived the service of notice.

4. The facts giving rise to this Petition are as under:

4.1) At the relevant time, Respondent No.2 was working as Senior Chief Manager, Lokmat, at Kolhapur and the Petitioner was working as P.T.S Key Board Operator, in Lokmat, Branch at *Chiplun*, District Ratnagiri. By Order dated 27th May, 2020, the Petitioner was transferred from Chiplun to Sangali. The Petitioner joined his new office at Sangali on 4th June, 2020. Thereafter, the Petitioner submitted an Application for reimbursement of the Travelling Allowance of Rs.5,500/- enclosing bill No.72 of *Shri Swami Samarth* Travels, at *Kamthe*, Matewadi, Taluka Chiplun. Said bill was processed and Rs.5,500/- were reimbursed to the Petitioner.

4.2) Thereafter, the Company suspected the genuineness of the said

bill. Hence, the Company held an inquiry through Mr. Santosh Sakhare, Manager (H.R. and Admin). During said inquiry, Anjali Mate and her husband Ankush Mate disclosed that, said bill is not issued by them. The vehicle registration No.MH-43-Y-5124 does not belong to their firm, *Shri Sawami Samarth* Travels, because the said firm only provides vehicles for tour and travels; no vehicle is provided by them for transport nor their Company deals in transport. Further, they disclosed that no transport service was given to the Petitioner by their firm. Thus, the Respondent No.2 convinced that, the Petitioner submitted a false, bogus and forged bill with his office and claimed the T.A. Bill of Rs.5,500/-, by cheating. Hence, Respondent No.2 filed the report and said F.I.R. came to be registered against the Petitioner. Hence, this Petition. Meanwhile the Police submitted the charge-sheet, hence necessary amendment has been carried out.

5) Learned counsel for the Petitioner submitted that, the whole investigation is conducted only on the basis that, the vehicle involved in the offence is vehicle registration No. MH-43-Y-5124. The said vehicle is a goods vehicle. However, in fact the Petitioner had traveled by the vehicle bearing registration No. MH-43-X-5124. This vehicle belongs to the co-accused in the offence. The same vehicle number is mentioned in Bill No.72, which was reimbursed. Even the same vehicle No. is mentioned in the travel pass which

the Petitioner had obtained for the said travelling. The investigation officer, however, wrongly concentrated on vehicle registration No. MH-43-Y-5124. Thus, the investigation was misdirected. As a result, Mr.&Mrs. Mate stated that the said vehicle MH-43-Y-5124 does not belong to them. Thus, the Petitioner is innocent

5.1) In the alternate, learned Advocate submitted that, the Petitioner has claimed Rs.24 Lakhs against his employee Lokmat Media Pvt. Ltd. Like Petitioner, many other employees of Lokmat are litigating against it. The total amount due against Lokmat is approximately Rs.5.00 Crs. Ever since the said matter has been referred to Labour Court, Lokmat has been harassing the employees to compel them to settle their claim for meager amount. The Petitioner also refused to agree for such a settlement. Hence, he has been falsely implicated in this crime with the help of the Police. Thus, the said prosecution is frivolous, vexatious, filed on account of vengeance and thus, malicious. Hence, the petition may be allowed.

6) Learned APP submitted that, the F.I.R. and the investigation material clearly indicate that the Petitioner forged the transport bill by showing the vehicle MH-43-Y-5124 and then claimed the T.A. bill. Thus, the Petitioner has cheated his office. As such, there is *prima facie* case against the Petitioner of having committed offences stated in the charge-sheet.

6.1) Similar is the contention of Respondent No.2 in the written notes of arguments. In support thereof Respondent No.2 has relied on the following decisions, which is a settled principle of law.

- i) *Kaptan Singh vs. State of Uttar Pradesh* [(2021) 9 SCC 35],
- ii) *State of Odisha v. Pratima Mohanty* [2021 SCC OnLine SC 1222],
- iii) *Mahendra K.C. v. State of Karnataka* [(2022) 2 SCC 129].

7) The entire prosecution case is based on the bill No.72, which, according to Respondent No.2 and other witnesses, is in respect of a transport vehicle registration No.MH-43-Y-5124, and not of MH-43-X-5124. The Petitioner did not travel by the former vehicle. Hence, the bill reimbursed to the Petitioner was false and bogus.

8) However, on the close scrutiny, we noticed that in the said bill, the right lower tail of the alphabet “X” is little short. Therefore, Respondent No.2 and the witnesses confused and read the said alphabet as “Y”, and ultimately, the vehicle number was also read as Mh-43-Y-5124, which is erroneous. Therefore, the claim of Respondent No.2 and the witnesses that the subject bill is forged, is misconceived.

9) That apart, it is significant to note that, in June 2020, the COVID–19 pandemic was at its peak. Therefore, public transport services were badly hampered and were available with certain restrictions. At that

time, the travel pass was very necessary in case one wanted to go out of station. Undisputedly, the Petitioner traveled total 160 Kms from Chiplun to Sangli during the peak period of COVID-19 pandemic. As such, it is highly probable that, the Petitioner traveled by private vehicle only. Otherwise, the Petitioner had no reason to get the travel pass which clearly shows that he had booked the vehicle No. MH-43-X-5124 of accused No.2 to travel as above.

10) The necessary corollary of the aforesaid discussion is that, the impugned criminal case is nothing but frivolous, vexatious and malicious. Hence, it is liable to be quashed and is accordingly quashed and set aside.

11) Petition is allowed in terms of prayer clause (a). Rule is accordingly made absolute.

(SHYAM C. CHANDAK, J.)

(A. S. GADKARI, J)