

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.924 OF 2021

Bhagirath Shankar Wani
Age : 54 years, Occ: Nil,
R/o.: Shiv Colony, Survey No.54/1,
Jalgaon 425001.

..Petitioner
(Original Accused)

Versus

1. The State of Maharashtra,
Through Satara City Police Station,
Dist- Satara.
(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 a/w. 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 the Code of Criminal Procedure seeking to quash the charge-sheet filed before the JMFC

Court at Satara bearing RCC No.277 of 2021 registered against the Petitioner for the offences punishable under Sections 420, 468, 470 and 471 of IPC.

2) Heard, Ms. Poonam Ankleshwaria, learned Advocate appearing for the Petitioner and Mr. Ajay Patil, learned APP for the Respondent-State. Respondent No.2 submitted the written notes of arguments, but 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.

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 Sawantwadi, District Sindhudurg. By an order dated 27th May, 2020, the Petitioner was transferred from Sawantwadi to Satara. The Petitioner joined the new branch at Satara on 4th June, 2020. Thereafter, on 13th June, 2020, the Petitioner submitted an Application for reimbursement of the traveling expenses enclosing traveling

bill of Rs.8,000/-, issued by Arihant Tours and Travels, *Kini*, Distrist Kolhpur.

Said Bill was processed and Rs.8000/- were reimbursed to the Petitioner.

4.2) Thereafter, the company suspected the genuineness of the said bill and hence conducted an inquiry through Santosh Sakhare, Manager, H.R. and Admin. During the said inquiry, Mahavir Patil, owner of Arihant Tours and Travel disclosed that, even though the said bill is in the name of his firm, it was not issued to the Petitioner. According to Mahavir Patil, in fact, he had given that blank bill to his friend Sunil Shinde on his demand. On enquiry with Sunil Shinde, he revealed that, he has a private Maruti Car bearing registration MH-09-EM-2708. He deals in local transport. Mr. Sunil Shinde further stated that, he had carried the domestic articles of the Petitioner from Sawantwadi to Satara in the said vehicle. At that time, the Petitioner demanded him only a blank bill without putting the amount therein. Accordingly, he gave a blank bill to the Petitioner. Then, the Petitioner pasted a revenue stamp on that bill and asked Sunil Shinde to signed there. Accordingly, and trusting the Petitioner Sunil Shinde signed on the bill. Then the Petitioner paid Rs.4,000/- to Sunil Shinde. However, later on the Petitioner falsely wrote Rs.8,000/- on the said blank bill and claimed that amount as Transport Allowances (T.A.). Thus, the Petitioner cheated the Company by Rs.4,000/-. Hence, Respondent No.2 filed the report. As a

result, the impugned 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 made.

5) Learned Advocate for the Petitioner submitted that, at the relevant time, the petitioner had travelled by a private cab, because public transport was not available due to strict COVID-19 norms prevailing then. Undisputedly, the said bill belongs to Arihant Tours and Travels and Sunil Shinde had signed on the said bill. However, there is no evidence that the Petitioner has falsely wrote Rs.8,000/- on the bill. Hence, Sunil Shinde cannot now disown his signed bill. It is highly improbable that Mr. Mahavir Patil would give a blank bill to Mr. Sunil Shinde, without any reason. There is no evidence as to when Mahavir Shinde gave that blank bill to Sunil Shinde. There is no investigation as to the involvement of Mahavir Patil and Sunil Shinde. As such, they have been given a clean chit without any basis. The car No. MH-09-EM-2708, which is goods vehicle, is not mentioned in the disputed bill. There is no investigation as to whether, this very vehicle was availed for transportation by the Petitioner or not. In this background, the statement by Sunil Shinde that the Petitioner travelled in the above car and he gave a blank bill to the Petitioner, is not acceptable in law. With similar allegations a crime has been registered on the report by Respondent

No.2 against Subhash Wankhede, an employee of Lokmat. This can not be a co-incidence. In this background, the conclusion is inevitable that purposely, Mahavir Patil and Sunil Shinde have given incorrect statement against the Petitioner at the behest of the Police.

5.1) Learned Counsel for the Petitioner has submitted that, Majithia Wage Board has passed an award against Lokmat Media Pvt. Ltd. and Lokamat is required to satisfy the said award by paying approximately Rs. 5 Crs. to its 120 employees. About 24 employees are from Jalgaon Center and they have been pressing for implementation of the said award. Hence, the matter has been referred to Labour Court. Since then Lokmat is harassing the said employees to force them to settle the matter for meager amount. The Petitioner, however, refused to accord for such settlement. Therefore, taking illegal help of Mahavir Patil and Sunil Shinde, the Respondent No.2 filed a false FIR to force undesired settlement on the Petitioner. Thus, present prosecution is nothing but a false, frivolous, vexatious and malicious one.

6) Learned APP submitted that, the F.I.R. and the investigation material clearly indicate that the Petitioner falsely wrote the amount of Rs.8,000/- in the bill and then claimed that amount. Thus, the Petitioner has cheated his office. As such, there is *prima facie* case against the

Petitioner of having committed the 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) We have carefully considered the rival submissions in the light of the material available on record. On such a consideration, we found that, the F.I.R. has been duly corroborated by the statement of other witness. The disputed bill bears the title of Arihant Tours and Travels, at *Kini*, Taluka Haathkanangale, District Kolhapur. Mahavir Patil and Sunil Shinde both are residing at *Kini*, which is far away from Sawantvadi. However, the Petitioner did not explain as to why Sunil Shinde and Mahavir Patil have stated against him. In this background, and considering the investigation material, we are of the opinion that, there is substance in the F.I.R. and the investigation material. Hence, it is safe to infer that there is a *prima facie* case against the Petitioner of having committed the alleged offences. Hence, he cannot escape said prosecution. It is trite position of law that the power of quashing should be exercised sparingly and with circumspection and in rare

cases. At the stage of discharge and/or considering the application under Section 482 of Cr.P.C., the Courts are not required to go into the merits of the allegations and/or evidence in detail as if conducting a mini-trial.

8) In view of the above discussion, we find that there are no merits in the Petition and it is liable to be dismissed.

8.1) Criminal Writ Petition No.924 of 2021 is accordingly dismissed.

(SHYAM C. CHANDAK, J.)

(A. S. GADKARI, J)