

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1370 OF 2023

1. Rajesh Sudam Bhujbal
Age : 56 Years, Occu.: Government Auditor,
R/o. : Survey No. 50/03, Bhujbal Vasti,
Wakad, Pune. ...Appellant

Versus

1. The State of Maharashtra
Through P.I. Swargate Police Station,
District : Pune. (Vide C.R.No.330/2023)

2. Vijay Janba Kamble
Age : 46 Years, Occu. : Nil,
R/o. : Kumar Picaso, Bungalow No.D/11,
Sadesatranali, Hadaspar, Pune. ...Respondents

Mr.Aniket Nikam i/b. Mr.Amit Icham:-	Advocates for Applicant.
Mr.V.N.Sagare:-	APP for Respondent No.1 -State.
Mr.Radhikesh V. Uttarwar a/w Ms.Pooja R. Thakur, Mr.Shrikant Patil and Mr.Arjun Pawar:-	Advocates for Respondent No.2.
Mr.Changdev sa jagane: API:-	Swargate Police Station : Pune City.

CORAM : S. M. MODAK, J.

DATE : 17th APRIL 2024

P. C. :-

1. Heard learned Advocate Shri.Nikam for the Applicant, learned APP for Respondent No.1 – State and learned Advocate Shri.Uttarwar for Respondent No.2 – First Informant. The Officer from Swargate Police Station is present along with the charge-sheet.
2. There was a specific direction given on 3rd April 2024 to bring the charge-sheet or to face the consequences of imposing cost. It must have weighed the mind of the Officers from Swargate Police Station. Today they have brought it.
3. It is true that this Court has granted an interim protection from arrest on 15th December 2023. It is also true that the charge-sheet is filed by the Police against two sets of Accused persons. **One set** consists of the rival competitors of the First-Informant. They are Pralhad Gavali, Shriram Khandekar, Tukaram Landge and Vaibhav Dombale. Whereas, **another set** consists of the present Applicant who is an Auditor from the Department of Co-operation.
4. The present Applicant was conducting an enquiry into the allegation of misappropriation made by one Pralhad Gavali. The First-Informant runs a Society by name Lokrajya Swayamrojgar Seva Sahakari Society. He undertakes the job of carrying out maintenance in

various buildings including the buildings owned by the Government. So also, Co-accused Pralhad Gavali is in the same business.

5. As a part of enquiry, present Applicant has called the necessary papers from the Lokrajya Swayamrojgar Seva Sahakari Society. They were not submitted. Hence, there is a reminder on 23rd March 2023. (Page No.27). The First-Informant sought two months time to comply with the said letter vide his notice reply acknowledged by the Office on 27th March 2023. (Page No.30).

6. The order of audit was cancelled by Divisional Registrar as per his order dated 21st September 2023. In view of that, the Applicant who was seized of an enquiry submitted a report to the District Deputy Registrar vide his letter dated 25th October 2023. (Page No.33). In that report, the Applicant has mentioned that the First-Informant has added few of the members from different locality. He had also given separate findings.

7. Learned Advocate for the First-Informant has invited my attention to the following documents:-

(a) An order of enquiry in respect of the business of the Society run by the First-Informant. It is dated 12th November 2022 on Page Nos.33/40 from the charge-

sheet papers.

- (b) Second letter dated 29th August 2023 sent to District Deputy Registrar requesting him to restore the original order of enquiry. (Page Nos.33/25).
- (c) Copy of letter dated 12th May 2023 sent by this Applicant to the Medical Superintendent, Yerawade Hospital – Pune asking them to give necessary papers submitted by the Society of the First-Informant along with tender.

8. The contention of the First-Informant is, in fact, the scope of enquiry was very limited. However, the Applicant deliberately has written to every Government Agency asking them to submit the information submitted by the First-Informant.

9. Alternatively, learned Advocate for the First-Informant submitted that once the charge-sheet is filed, the Applicant can obtain regular bail from the Special Court. He also submitted that let the interest of the First-Informant be protected because he is running a Society and the Applicant will continue to hold that post and by way of vengeance, he may harass the First-Informant.

10. Learned APP has invited my attention to the statement of one Vaijanath Kale who is a driver of the First-Informant. It is dated 13th December 2023. He has accompanied the First-Informant in the

month of March 2023. When he was waiting for his employer, the First-Informant, after the First-Informant came down, he was also accompanied by one person who was subsequently referred by the First-Informant as the Applicant. The witness further stated about the threat given by the Applicant to the First-Informant not to insist for an enquiry, otherwise, his further tenders will be cancelled.

11. Learned Advocate Shri.Nikam submitted that even though this alleged incident took place in the month of March 2023, the FIR is filed belatedly almost 9 months i.e. on 9th December 2023. According to him, the incident is concocted and this FIR is filed on the background of submission of a report dated 25th October 2023 thereby blaming the allegation of misappropriation against the First-Informant.

12. Today, after hearing all the sides and going through the documents, I am inclined to confirm the interim protection granted on 15th December 2023. It is for the reason that the charge-sheet is also filed against the present Applicant and other Accused persons. It suggests that the custodial interrogation of the Applicant is not required. Furthermore, after reading the papers and the FIR, one can say that the FIR is not filed immediately. But, he waited for 8 to 9

months for lodging the FIR. It is a matter of record that the applicant was interested with an enquiry so as to inquire about the allegations against the First-Informant. It was part of duty. Now, whether he has exceeded the scope of that enquiry or not, cannot be considered now. But, one cannot deny that it is a part of enquiry.

13. Interest of the First-Informant can be protected by imposing certain conditions. In view of that, order needs to be confirmed.

Hence, order:-

ORDER

- (i) The order dated 15th December 2023 is confirmed.
- (ii) If the bail is not furnished, let the Applicant to furnish the bail as per the interim order.
- (iii) If the Applicant is entrusted with any enquiry involving the First-Informant, he can inform the Officers not to entrust that responsibility.
- (iv) Applicant not to threaten the prosecution witnesses in any manner.

14. In view of the above, Appeal is disposed of.

[S. M. MODAK, J.]