



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION NO. 1186 OF 2022

Atul S/o Kisanrao Ther,
Aged 33 years,
Occupation : Private Job
R/o Sadashiv Nagar, Risod, Tah. Risod,
Dist. Washim

...Applicant

// VERSUS //

1. State of Maharashtra,
through Police Station Officer,
Police Station Risod, Tahsil Risod,
District Washim
2. Shivaji S/o Nagorao Ghuge
Aged 46 years, Occ. Cultivator,
R/o Shelgaon Tahsil Washim,
District Washim

... Non-applicants

Ms. Apurva Telenge h/f Shri A.P.Tathod, Advocate for the applicant.
Shri Ujwal Phasate, APP for the non-applicant/State.

**CORAM : SMT. VIBHA KANKANWADI, AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATED : 11th JULY, 2024.

ORAL JUDGMENT : [PER : SMT. VIBHA KANKANWADI, J.]

Rule. Rule made returnable. Heard finally by consent of the parties.

2. The present application has been filed under Section 482 of the Code of Criminal Procedure for quashing the First Information Report and the charge-sheet. The applicant is the original accused no.2 in Crime No. 425 of 2019 registered with Risod Police Station, Washim on 3rd October, 2019 for the offence punishable under Sections 7 and 12 of the Prevention of Corruption Act (hereinafter referred to as “PC Act.”)

3. After the investigation was completed, charge-sheet has been filed before the learned Special Judge at Washim on 18th February, 2021.

4. Heard Ms. Apurva Telenge holding for Shri A.P.Tathod, Advocate for the applicant and Shri Ujwal Phasate, learned Additional Public Prosecutor for the non-applicant/State.

5. It has been vehemently argued on behalf of the applicant that the applicant is doing private job, thereby he is not even a public servant. However, he has been roped in and false allegations have been made against him. The applicant is an employee of one M/s. Work Group Surakshit Berojgar Nagrik Sewa Sahakari Sanstha, Amravati who was engaged by the Government for the work of maintenance of DP and collection of electric bills. The applicant was employed by the said society on 24th December, 2016 as Technician. His work was purely on contract basis on the post of skilled worker, which was for a period of 11 months and therefore he cannot come under the definition of Section 2(c) of PC Act. No role has been attributed to the applicant but the prosecution contends that the accused no.1 had demanded the bribe and

the present applicant was found possessing the amount of Rs.10,000/- which was the tainted amount. On such false contentions, if he is asked to face the trial, then his future opportunity to get employment would be jeopardized and therefore the charge-sheet needs to be quashed and set aside.

6. Per contra, learned Additional Public Prosecutor strongly opposed the application and he submits that the perusal of the entire charge-sheet would show that the accused no.1 had demanded the bribe amount from the complainant. The complainant was not willing to give the bribe amount. After all the procedural aspects were complied with i.e. verification of the demand under the panchanama, the original accused no.1 had told the complainant that the said amount of bribe should be given to the present applicant. The conversation in which the applicant had taken part would show that the applicant had asked the complainant as to why he has not brought the amount of Rs.10,000/- on the date of verification. Thereafter, further date was fixed i.e. 3rd October, 2019. Accordingly, trap was arranged. The amount was made ready with the application of anthracene powder and when the demand was made by the applicant, thereby indicating that he is accepting the bribe amount on behalf of the accused no.1, the said amount was given. Thus, the present applicant was found possessing the tainted amount when the raid was conducted. Therefore, there is strong evidence against the present applicant. His action would be covered under Section 12 of PC Act and therefore no case is made out for exercising of inherent powers of this Court.

7. We agree with the submission made on behalf of the non-applicant no.1/State. Perusal of the entire complaint would show that the present applicant was aware about the alleged demand. Of course, it is to be tested when evidence would be led but *prima facie* there appears to be evidence to that effect and when the trap was re-arranged on 3rd October, 2019, the applicant was found red handed with tainted amount thereby accepting the said amount from the complainant. Though for the sake of argument, we accept that the applicant cannot be termed as a public servant as defined under Section 2(c) of the PC Act, yet for Section 12 of the PC Act such person need not be a public servant. Allegation against the applicant is that he was found possessing the tainted amount on behalf of the public servant who had allegedly demanded it. When there is evidence against the applicant, we do not take this to be a fit case where we should exercise our inherent powers under Section 482 of the Code of Criminal Procedure. Hence, we pass the following order.

- i. The Criminal Application No. 1186 of 2024 stands rejected.
- ii. Rule is discharged.

[MRS. VRUSHALI V. JOSHI, J.] [SMT. VIBHA KANKANWADI, J.]