



Judgment

22 apl 1214.22

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

CRIMINAL APPLICATION (APL) NO. 1214/2022

Smt. Nadera Sultana w/o. Mohammad Jawed,
Age 60 yrs., Occ. Retired,
R/o. Gulmohar Park, near Power House,
Pandharkawada Road, Yavatmal,
Tq. & Dist. Yavatmal.

... **APPLICANT**

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Police Station, Malkapur,
Tq. Malkapur, Dist. Buldhana.
2. Khurshidabi w/o. Khurshid Hussain,
Age 70 yrs., Occ. Retired,
R/o. Gandhi Chouk, Malkapur,
Tq. Malkapur, Dist. Buldhana.
3. Kazi Usman Naiyer Kazi Moinuddin,
Age 44 yrs., Occ. Not known,
R/o. Ward No.10, Parpeth, Malkapur,
Tq. Malkapur, Dist. Buldhana.
4. Khalidulla Khan Fahimdulla Khan,
Age 62 yrs., Occ. Driver,
R/o. Malavipura Malkapur, Tq. Malkapur,
Dist. Buldhana.

...**NON-APPLICANTS**

Mr. P.S. Raut, Advocate for applicant.
Mr. I.J. Damle, APP for non-applicant No.1/State

**CORAM : VINAY JOSHI AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATE : 18.04.2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

2. **Admit.**

3. This is an application to quash First Information Report ('FIR') vide crime No.3/2011 registered with Police Station Malkapur, Tq. Malkapur, Dist. Buldhana for the offence punishable under Sections 196, 415, 416, 420, 468, 473, 477, 511 read with Section 34 of the Indian Penal Code.

4. One member of the education society has lodged report against several persons alleging that they have issued illegal appointment of teacher to one of accused namely Kazi Moinuddin, though he was not qualified at the relevant time. The applicant (accused No.2) was an Assistant Teacher and she allegedly by joining

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hands with the co-accused has been assisted to give illegal appointment. In pursuance of direction issued by the Magistrate, the crime has been registered in the year 2011. It is applicant's prime grievance that though in the year 2011 crime has been registered, till date the Police neither investigated the matter nor filed charge-sheet. The applicant is a retired Assistant Teacher whose retiral benefit have been withheld due to pendency of the proceeding.

5. It reveals that one of the accused has challenged the registration of crime in criminal Writ petition No. 469/2011, wherein this Court vide order dated 31.01.2012 has stayed the process of investigation. Latter on, said petition was disposed of since withdrawn on 04.12.2019, however next five years nothing was done by the Police.

6. Facing such circumstances, we have specifically directed the learned prosecutor to take instruction as to what steps were taken in connection with Crime No. 3/2011. The learned APP has produced on record a communication dated 16.04.2024 showing that the relevant papers are missing being very old and efforts are being

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made to find out the papers, even calling from the complainant himself.

7. It is apparent that the for 13 years, nothing has been happened, though stay was vacated in the year 2019, for next five years, no steps have been taken. By the time, the Investigating Agency is also unable to find out the papers. In the circumstances, the matter cannot be kept hanging by way of depriving of retired teacher from getting benefits.

8. Having regard to the above fact, we deem it appropriate to invoke our inherent powers. Hence, application is allowed. We hereby quash and set aside FIR vide crime No.3/2011 registered with Police Station Malkapur, Tq. Malkapur, Dist. Buldhana for the offence punishable under Sections 196, 415, 416, 420, 468, 473, 477, 511 read with Section 34 of the Indian Penal Code against the present applicant only.

9. Application stands disposed of in above terms.

(MRS. VRUSHALI V. JOSHI, J.)

Gohane

(VINAY JOSHI, J.)