



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 58 OF 2025

Ramesh s/o Dhondiba Kale
Age : 44 years, Occu : Agri,
R/o. At. Kasar Dumala, Tq. Sangamner,
Dist. Ahmednagar.

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through I/C Police Station
Sangamner, Tq. Sangamner,
Dist. Ahmednagar.
- 2) The Superintendent of Police,
Ahmednagar, District Ahmednagar.

...RESPONDENTS

...
Shri Nikam Anup Ramrao, Advocate for the Applicant.
Shri P.S. Patil, APP for the Respondents/State.
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CORAM : SMT. VIBHA KANKANWADI
&
SUSHIL M. GHODESWAR, JJ.

DATE : 21 August 2025

Per Court :-

The present application has been filed initially for quashing the FIR vide Crime No.131/2024 registered on 24.02.2024 with the Sangamner City Police Station, District Ahmednagar and later on, by way of amendment for quashing

the charge-sheet bearing No.253/2024 for the offences punishable under Section 379 of the Indian Penal Code and Sections 3 and 15 of the Environment (Protection) Act, 1986.

2. Heard the learned advocate for the applicant and the learned APP for the respondents/ State.

3. The learned advocate for the applicant has taken us through the entire charge-sheet including the FIR and submits that though in the FIR, the name of the present applicant is appearing, yet it is in the form that he ran away from the spot. The identification is not established and the Police have not clarified as to who had given information regarding involvement of the applicant in the crime. The statements of witnesses would show that they are police persons from raiding party. Therefore, there is absolutely no evidence against the present applicant and it would be unjust for him to face the trial.

4. The learned APP strongly opposes the application and submits that secret information was received to the Police Station with the names that they were carrying out such illegal activity of excavation of sand from river bed, which is harmful to environment and, therefore, the raid was conducted. However, at

the time of raid, three persons fled from the spot. The enquiry was made with adjoining farmers and then, the FIR has been lodged. A pick-up van was seized from the spot, which had no number plate. Even there is station diary entry which shows that the present applicant had given telephonic call to the Police Station and disclosed that the said vehicle belongs to his nephew. Though one Om Sunil Dhone appears to have made an application bearing Criminal Application No.402/2024 for return of the property i.e. pick-up van, however, as per the information, the said person after inspecting the vehicle told that it does not belong to him. Now, when the charge-sheet is filed and online status would show that it is part-heard before the Trial Court, this should not be taken as a fit case where the Court should exercise its powers under Section 482 of the Code of Criminal Procedure.

5. Perusal of the entire charge-sheet especially the FIR would show that though it is stated that the Police Head Constable Dattatreya Gavhane of Local Crime Branch had received specific information i.e. with names of persons including the name of the present applicant as persons who are indulging in illegal excavation of sand and its transportation in a

white pick-up van, the fact remains is that when it is stated that the raid was conducted at 02:30 am in the river bed of river Pravara, they found one pick-up van having no number plate in which the work of loading the sand with the help of labourers was going on. It is then stated that three persons by taking disadvantage of darkness fled away and the police called them by their first names, they looked backward towards the raiding party, but they speed up their run. Then, it is stated that when the enquiry was made with adjoining farmers, who confirmed that the present applicant and other co-accused were dealing with transportation of sand, which is illegally excavated for their wrongful gain, without taking permission from appropriate authorities. Here, it is to be noted that the FIR is supported by the statements of two witnesses, who are police persons from the raiding party, of course there is panchanama that is stated to have been got executed with the help of two panchas, but there is no statement regarding as to whether, any enquiry was made with the labourers who were present at the spot. They would have been the best persons, who could have told as to for whom they were working and who have brought them at that place. There are also no statements of adjoining farmers with whom the

informant and other police persons had made enquiry. When the raid has been conducted at 02:30 pm, then it appears to be improbable that there would have been farmers present in the adjoining area. At the cost of repetition, we would say that the spot where the alleged excavation of sand was going on, is in the river bed. There is absolutely no statement in the FIR as well as the statements under Section 161 of the Code of Criminal Procedure that the police persons were knowing the present applicant and co-accused even prior to 24.02.2024. The test identification parade has not been conducted to identify that the present applicant was present and after witnessing the raiding party, he fled away from the spot. Therefore, there is absolutely no such evidence on record in the charge-sheet, which would *prima facie* show that the present applicant had committed theft of the sand and he has caused any such activities which were dangerous to environment so as to attract the provisions of the Environment (Protection) Act, 1986. Though the matter is part-heard before the learned Trial Judge, yet we are of the opinion that the charge itself ought not to have been framed taking into consideration all these aspects. It would be unjust to ask the applicant to face further trial and, therefore, the case is made out

for exercise of inherent powers under Section 482 of the Code of Criminal Procedure.

6. The Criminal Application stands allowed. The proceedings in RCC No.521/2024 pending before the learned JMFC, Sangamner, arising out of the FIR vide Crime No.131/2024 registered with the Sangamner City Police Station for the offences punishable under Section 379 of the Indian Penal Code and Sections 3 and 15 of the Environment (Protection) Act, 1986, stand quashed and set aside as against the present applicant.

kps

(SUSHIL M. GHODESWAR, J.)

(SMT.VIBHA KANKANWADI, J.)