



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

925 CRIMINAL WRIT PETITION NO. 73 OF 2024

SHRINIWAS RANGNATH VARPE AND OTHERS

VERSUS

SHIVAJI FAKIRA DANDKE AND ANOTHER

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Mr. S. P. Mahale, h/f Mr. Shaikh Mazhar A. Jahagirdar, Advocate
for the Petitioners

Mr. B. B. Pathak, Advocate for Respondent No.1

Ms Ashlesha, S. Deshmukh, APP for Respondent No.2

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 12.02.2025

PER COURT :-

1. Heard the learned counsel for the Petitioners and the
learned counsel for the Respondents, at length.

2. By the present Petition, the Petitioners who are
working as Executive Engineer, Superintendent Engineer, Sub
Divisional Officer P.W.D, District Ahmednagar and the Partner of
M/s Bankar Patil and Engineers, have prayed to quash and set
aside the order dated 12.10.2023, passed by the learned Judicial
Magistrate, First Class, Court No.4, Shrirampur, below Exh.1 in

R.C.C. No. 87 of 2022, whereby issued notice/process for the offence under Section 420, 166, 468 of I.P.C. The Petitioners further prayed to quash and set aside the proceeding bearing R.C.C. No.87 of 2022 pending on the file of the learned Judicial Magistrate, First Class, Shrirampur.

3. On face of record, it appears that the present Respondent/original complainant instituted the private complaint R.C.C. No.87 of 2022 against the accused persons i.e. (1) Executive Engineer, (2) Superintendent Engineer, (3) Sub Divisional Officer P.W.D District Ahmednagar and (4) The Partner of M/s Bankar Patil and Engineers in their designation. All the four accused have impleaded as party accused in the designation. The present Petitioners are not impleaded as accused by their names.

4. It is well settled principle of law that the penal action is always against the personam and criminal act cannot be attached with the designation. However, the Respondents / complainants have filed the complaint arranged accused persons in designations of the Public Works Department of the State Government. However, the Petitioners have filed the present Petition in their personal capacity,

though they are not impleaded being accused in their personal capacity. Therefore, to my mind, unless the present Petitioners are prosecuted in their personal capacity attached with respective designation, they have no right to seek for quashment of the proceeding.

5. However, it appears that on 12.10.2023, the learned Judicial Magistrate, First Class, Court No.4, Shrirampur, passed the impugned order and issued process/notice against the accused in their designations for the offence punishable under Sections 420, 166, 468 of I.P.C., though the designation cannot be prosecuted.

6. In view of above, the present Writ Petition is not maintainable in the personal capacity of the Petitioners. Hence, the Writ Petition is dismissed.

[Y. G. KHOBRADE, J.]

SMS