



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

CRIMINAL WRIT PETITION NO.68 OF 2025

- 1) Chiragoddin Ijaboddin Shaikh,
Age-76 years, Occu:Social Work,
R/o-Khurshid Ali, Chopda,
Taluka-Chopda, District-Jalgaon,
- 2) Haji Mohammad Ismail Shaikh
Hasan Teli, Age-79 years,
Occu:Social Work, R/o-Chunar Ali,
Chopda, District-Jalgaon.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Mumbai,
- 2) Superintendent of Police,
Jalgaon, District-Jalgaon,
- 3) Director General of Police,
Lion Gate, Fort, Mumbai,
- 4) Police Inspector,
Chopda City Police Station,
District-Jalgaon,
- 5) Eknath M. Bhise,
Assistant Police Inspector,
Chopda City Police Station,
District-Jalgaon,
- 6) Education Officer (Secondary),
Zilla Parishad, Jalgaon,

7) Deputy Charity Commissioner,
06, Ganesh Colony, Civil Court
Road, Sukali, Jalogan.

...RESPONDENTS

...
Mr. Bhushan Mahajan Advocate for Petitioners.
Mr. S.A. Gaikwad, A.P.P. for Respondent Nos. 1 to 7.
...

**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 15th JULY 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. By invoking the constitutional powers of this Court under Article 226 of the Constitution of India, the petitioners have prayed thus:-

" A) The respondent No.2-Superintendent of Police, Jalgaon may kindly be directed to transfer the investigation of the FIRs bearing Crime No.367 of 2023 dated 15.07.2023 (EXHIBIT-"D"), Crime No.22 of 2024 dated 24.01.2024 (EXHIBIT-"F") & Crime No.495 of 2024 dated 26.09.2024 (EXHIBIT-"H") registered with Chopda city Police Station, Dist-Jalgaon to the senior officer of IPS Cadre for the purpose to conduct fair and impartial investigation in respect of the aforementioned crimes;

B) The respondent No.2-Director General of Police, Mumbai may kindly be directed to take disciplinary action against the respondent No.5-Eknath Bhise, Assistant Police Inspector, Chopda City Police Station, Chopda for the misconduct of protecting accused by not arresting them in

connection with the offence punishable up to imprisonment for life.”

2. It will not be out of place to mention here that when the matter was on Board on 29th January 2025, after hearing the petitioners and going through the entire material, the learned Advocate for the petitioners agreed that in respect of requirement and the charge-sheet that has been filed before the learned Judicial Magistrate First Class, Jalgaon, arising out of Crime No. 367 of 2023, dated 15th July 2023, i.e. R.C.C. No.13 of 2025, there were no *mala fides* or shortcomings, requiring directions to transfer of investigation of that offence and therefore, statement was made on behalf of the petitioners that the petitioners are giving up the relief in respect of that offence, i.e. Prayer Clause A) above, partly.

3. It appears that there were other two crimes being Crime No.22 of 2024 and 495 of 2024. It was stated that the anticipatory bail has not been obtained by any of the accused persons who have been arrayed in the First Information Reports and though some of the offences are punishable with imprisonment for life, there is no arrest made and therefore, according to the petitioners, there was no fair and impartial

investigation in respect of those two offences. Therefore, by said order this Court had directed the learned APP to get the instructions in respect of Crime No.22 of 2024 and Crime No.495 of 2024, registered with Chopda Police Station, District-Jalgaon.

4. Crime No.22 of 2024 contends that the accused persons arrayed therein have committed offence under Sections 420, 406, 468, 471, 120-B read with Section 34 of the Indian Penal Code. As regards Crime No.495 of 2024 is concerned, it is registered under Sections 420, 201, 464, 467, 471, 474, 477 read with Section 34 of the Indian Penal Code. It appears from the submissions on behalf of the petitioners that since the accused persons are not yet arrested, they say that there is no fair and impartial investigation. Therefore, it is required to be seen whether there is any element of truth in the allegations.

5. Petitioner No.1 states that he is the founder chairman of Mustafa Education Society, Chopda and petitioner No.2 is stated to be the member of the said society. It is stated that some of the members of the society are posing themselves as President, Secretary and Treasurer. They have prepared unauthorized seal of the society and carrying out the affairs of the society illegally.

It is then stated that the Education Officer (Secondary), Jalgaon vide its letter dated 10th January 2024, issued to the Deputy Charity Commissioner, Jalgaon sought information as to which executive board is authorized for taking decision regarding appointment of teachers in the schools run by Mustafa Education Society. The Deputy Charity Commissioner, Jalgaon clarified that it cannot be said exactly that which executive board is authorized to run the business of the Education Society, vide letter dated 15th January 2024. It is stated that the said society has its minority status and is running Mustafa Anglo Urdu High School and Junior College. It is funded by the Minority Department and there are about 1500 students who are taking education. The petitioners contend that some of the members of the society are misappropriating Government funds and with the help of forged documents they are making the recruitment of teachers. It appears that in respect of three allegedly different contentions three different criminal miscellaneous applications came to be filed before the learned Judicial Magistrate First Class, Chopda, as the First Information Reports those were tried to be lodged by the petitioners, were not taken by the police. By separate orders, the learned Judicial Magistrate First Class, Chopda appears to have allowed the applications under Section

156(3) of the Code of Criminal Procedure and directed the investigation to be conducted. According to the petitioners, there is no fair investigation in the matter and none of the accused persons have been arrested.

6. Respondent No.5, Mr. Eknath Macchindra Bhise, Assistant Police Inspector of Chopda Police Station, who is the investigating officer, has filed his affidavit. He gives the same set of facts and in addition to that, the litigations which were taken up before the Deputy Charity Commissioner, Jalgaon, Joint Charity Commissioner, Nashik Division have been referred to. He gives, as to how the investigation has been done by his predecessor as well as he himself and submits that during the course of investigation of Crime No.495 of 2024, the accused persons have fully co-operated with the investigating officer. There was no need for custodial interrogation. He then submits that as on today no investigation is pending. It has been further submitted that no concrete evidence has been found as alleged by the petitioners in respect of Crime No.495 of 2024. In respect of Crime No.22 of 2024, investigating officer Mr. Santosh Pardhi served notices under Section 41-A of the Code of Criminal Procedure on the accused and accordingly they remained present

and investigation was carried out. Respondent No.5. got the matter transferred for investigation to him on 10th April 2024. The certified copies of the proceedings before the Charity Commissioners has been obtained by him and it is stated that the incident appears to have been taken place during the period when the documents were in the possession of the Deputy Charity Commissioner, Jalgaon and the Joint Charity Commissioner, Nashik.

7. A limited point is required to be considered here taking into consideration the allegations. First of all the same investigating officer appears to have conducted the three investigations i.e. in respect of three different crime numbers and according to him, the investigation has been given to him at the last lap. As regards one charge-sheet, as aforesaid, already a statement has been made that no *mala fides* have been found. Then the question arises, as to why for the other two offences there can be an element of *mala fides*. Why there should have been three different First Information Reports, is also a question. Further, in the Petition itself when the petitioners are accepting that the Deputy Charity Commissioner is also not sure as to which executive board is authorized to run the business of the

education society, then how the investigating officer is supposed to come to a particular conclusion, is a question. Still, with the help of various documents, statements and the orders those appears to have been passed by the concerned authorities, the investigating officer is going ahead with the investigation. We do not find any reason for interference. Merely because the accused persons are not arrested, it cannot be presumed that there are *mala fides*.

8. The Writ Petition stands rejected.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/JULY25