



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.636 OF 2023

1 Meena Sukhadev Bakal,
Age 38 yrs., Occ. Service,
R/o Snehnagar, Police Colony,
Nanded, Tq. & Dist. Nanded.

2 Kulbhushan Prabhakar Bavaskar,
Age 42 yrs., Occ. Business,

Applicant Nos.1 and 2 are original
R/o H. No. D-31, Sankul,
Near MIT High School, N-4, CIDCO,
Aurangabad.

... Applicants

... Versus ...

1 The State of Maharashtra

2 Khwaja Magdum Shaikh,
Age 41 yrs., Occ. Electrician,
R/o Dastagir Galli, Ahmedpur,
Tq. Ahmedpur, Dist. Latur.

... Respondents

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Mrs. Rashmi S. Kulkarni and Mrs. Namita P. Thole, Advocates for applicants

Mr. A.R. Kale, APP for respondent No.1

Mr. R.V. Dasalkar, Advocate (appointed) for respondent No.2

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CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.

RESERVED ON : 01st JULY, 2025

PRONOUNCED ON : 07th AUGUST, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 initially for quashment of First Information Report vide Crime No.355/2022 dated 21.11.2022 registered with Police Station, Mukhed, Tq. Mukhed, Dist. Nanded, for the offence punishable under Section 7-A of the Prevention of Corruption Act, 1988 and later on by way of amendment for quashing the proceedings in Special Case No.10/2024 pending before learned Additional Special Judge, under PC Act, Mukhed, Dist. Nanded.

2 Heard learned Advocate Mrs. Rashmi S. Kulkarni for applicants, learned APP Mr. A.R. Kale for respondent No.1 and learned appointed Advocate Mr. R.V. Dasalkar for respondent No.2.

3 Learned Advocate for applicants submits that applicant No.1 is a Police Officer, who was working as Police Inspector in Anti Corruption Bureau Class-1, Nanded at the relevant time and applicant No.2 is her husband. Respondent No.2 had approached Mukhed Police Station and informed that his brother Shaikh Mehraj is doing the work of preparing files etc. outside the

Tahsil Office, Kandhar. Mehraj has received a phone call from ACB office, Nanded on 15.11.2022. The person who was speaking to him was a lady, who disclosed to him that ACB office has received a complaint against him and invited her to the office. The informant – complainant states that as his brother told the said fact to him, he gave a phone call around 2.00 p.m. on the said phone number and asked as to whether lady officer is in the office and he also disclosed that he is brother of Mehraj. The lady officer told him that she is there in the office til 8.00 p.m. and he should come alone. After a while he received phone call from another number and the male person told that he should not go to ACB office, Nanded, but come to Jamb. Informant says that he went to Jamb around 7.30 p.m., however, did not meet anybody, but went to Nanded. He tried to contact the lady Police Officer, who received the phone, but did not speak anything. On 16.11.2022 he received phone call having called id as 'PA Sayyad Sir, Mumbai'. He was then called to Shivaji Chowk, Udgir. Informant went there and met that person, who disclosed his name as Sayyad. He showed the complaint application given by Mehraj, wherein he had made complaint that Tahsildar and Talathi, Kandhar are taking bribe of Rs.10,000/- for making signatures. Said Sayyad told that for sanction a positive report he should give amount of Rs.1,00,000/- to the lady Police Officer. Upon the compromise the said amount was fixed at Rs.70,000/-. Said Sayyad immediately made a phone call to lady Police

Officer and in the presence of informant told that the talks have been done. Thereafter, the informant went home. He had no desire to give the illegal gratification and, therefore, lodged the report with Aurangabad ACB office.

4 It is the prosecution story that in order to verify the demand the trap was laid by arranging panchas and it is stated that said Sayyad made the demand of Rs.70,000/- and it was then decided that the amount of Rs.60,000/- would be given on 20.11.2022. The trap was then laid and said Sayyad Ismail accepted the amount.

5 Learned Advocate for applicants submits that applicant No.1 is accepting that the office had received online complaint against Talathi, Kandhar or whole Tahsil of Kandhar on 08.09.2022 at 12.49 p.m. She had sought guidance from the superior as complainant's name as it was appearing was Tahsil, Kandhar but the contact number was given. On 23.09.2022 Superintendent, ACB, Nanded Division gave her guidance to see whether the complainant is in existence. On 11.10.2022 after making preliminary inquiry applicant No.1 had given report to Director General, ACB, Mumbai stating that complaint application appears to have been given anonymously intentionally with *mala fide* intention. The mobile number is wrong and, therefore, the said application should be treated as closed. However, again on 17.09.2022 another complaint was given by anonymous person by stating

himself as 'XYZ' and reasons for the bribe was stated to be that, "*The attached number is of pappu dalal who are attachment of Talathi and the mediator takes thousands of rupees for documents, in Kandhar Tahsil not only Talathi everyone is correct.*" Applicant No.1 had then received directions from her superior on 27.09.2022 for considering both the applications together. Some lacunas were found in the inquiry which was then informed by the superior and applicant No.1 has made corrections in the same. Again on 20.09.2022 Pappu Shaikh had given complaint. Applicant No.1 was making inquiry regarding same and it took her time, however, in that connection only she had given a call to the number which turned out to be that of Mehraj and Mehraj says that his name is Mehraj @ Pappu. Interestingly, he has not taken part in the latter process, but the complainant who is his brother has taken the part. Now, there is nothing to show that present applicants had ever authorized any such person by name Sayyad to demand amount for and on behalf of them. Certain data is stated to have been collected in respect of mobile numbers. However, further details to involve the applicants are not there. Applicant No.2 had not played any role in abetment. He has been involved with ulterior motive. The role tried to be attributed to him is that he had received phone call of other accused person and it is then stated that at that time applicant No.1 was on leave. Section 12 of the Prevention of Corruption Act will not get attracted. The complaint

allegedly made by Mehraj was forwarded by applicant No.2 to co-accused Sayyad only to get it translated in Marathi, as applicant No.1 is not much conversant with Marathi. For the acts done by said Sayyad applicants cannot be held responsible. When there is no evidence to connect applicants with the crime, it would be an abuse of process of law to ask them to face the trial.

6 Per contra, learned APP for respondent No.1 and learned Advocate Mr. R.V. Dasalkar appointed to represent cause of respondent No.2 strongly opposed the application. They have also taken us through the entire charge sheet and submitted that there is sufficient material collected to show the conversations that had taken place between co-accused Sayyad and present applicants. The transcript of conversations between informant and co-accused Sayyad, Mehraj and co-accused Sayyad, co-accused Sayyad and present applicants are produced. It appears that Sayyad, who is stated to be working as PA in Mantralaya, Mumbai was acting for present applicants. The involvement of applicant No.2 is also clear. He has also given the nod to the bribe amount. The CDR, SDR and CAF of mobile numbers have been collected. Therefore, this is not a fit case where the Court should exercise its powers under Section 482 of the Code of Criminal Procedure.

7 The facts under which the complaint came to be filed and then how First Information Report has been registered has already been narrated

to the extent that applicant No.1 had given phone call to Mehraj on 15.11.2022. She admits the same and even in writing there is evidence to that effect. According to her, she was making preliminary inquiry when anonymous complaints were received. However, it is to be seen that those dates are from September 8, 2022 onwards and on 10.11.2022 she had given one letter to Director General, ACB, Mumbai to treat the complaints dated 28.09.2022 and 06.10.2022 as filed. Then the question that requires to be gone into is, why she should then give a phone call on 15.11.2022 to Mehraj ? There is a letter on record given by Superintendent, ACB, Nanded Division dated 11.11.2022 to Deputy Superintendent of Police, Nanded stating that the preliminary inquiry in respect of complaint application dated 27.09.2022 is still pending and he had called then the report as early as possible. One document has been seized which has too many corrections and appears to have been singed by applicant No.1, wherein it is stated that said complaint applications should be treated as 'closed', and then it is stated that on 14.11.2022 the corrected report was sent on 14.11.2022 to Director General, ACB, Mumbai. Still the question remains, why there should be a call by applicant No.1 to Mehraj on 15.11.2022 i.e. on the next day of her own communication dated 14.11.2022.

Mehraj would be explained by him and Mehraj and that cannot be a ground for quashing the proceedings. As regards the communication between informant and co-accused Sayyad, there is evidence in the form of conversation recorded on the voice recorder, to which Panch No.1 appears to be the witness, thereafter the raid was conducted and the amount was accepted by co-accused Sayyad. There is a panchnama executed to that extent. Thereafter, when co-accused Sayyad was arrested and his mobile phone has been seized, there appears to be the conversation recorded in the same and conversations are as the data reveals is between informant and co-accused. This is also seen from the mobile phone of informant. The screen shots of the conversation slots or record have also been taken. There are also conversations recorded between Mehraj and co-accused Sayyad. There is also evidence in the form of WhatsApp chats and it is stated that the number of applicant No.1 has been saved in the name 'Boss'. Further, as regards applicant No.2 is concerned, there is conversation i.e. in the form of recording. Therefore, when such evidence is there, this will not be a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- i) Criminal Application stands rejected.

ii) Fees of the appointed Advocate is quantified at Rs.10,000/- (Rupees Ten Thousand only), to be paid by High Court Legal Services Sub Committee, Aurangabad.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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