



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

CRIMINAL WRIT PETITION NO. 339 OF 2024

Asgarali Maheboobali Saiyyad
and another

.. Petitioners

Versus

The State of Maharashtra and another .. Respondents

Shri Ajay G. Talhar, Advocate for the Petitioners.

Mrs. Ashlesha S. Deshmukh, A.P.P. for the Respondent No. 1.

Shri Bhushan Mahajan, Advocate for the Respondent No. 02.

CORAM : SHAILESH P. BRAHME, J.

DATE : 08TH APRIL, 2025.

FINAL ORDER :

. Heard Mr. Ajay G. Talhar for the petitioners, Mrs. Deshmukh, learned A. P. P. for the State and Mr. Mahajan, learned counsel for the respondent No. 2.

2. Being aggrieved by judgment and order dated 03rd November, 2023 passed in Criminal Revision No. 25 of 2023 confirming the order dated 14.07.2023 passed by the Judicial Magistrate First Class, Chopda in Cri. M. A. No. 413 of 2021, present petition is preferred by the original accused.

3. The respondent No. 2, initially filed Cri. M. A. No. 413 of 2021 against the petitioners for the offence punishable U/Sec. 463, 464, 465, 468 and 471 of the Indian Penal Code. It was

alleged that present petitioners were the office bearers of the educational institution, which was running high school. In the year 2012 seven teachers were recruited and amongst them was one Mr. Azaroddin Jahiroddin. Thereafter in the year 2014 recruitment of four teachers including co-accused Shaikh Mohsin Shaikh Hasham was done. They were shown to be appointed from 16.06.2014. However in case of co-accused Shaikh Mohsin Shaikh Hasham, the appointment was shown to be done on 24.12.2012 by preparing forged and bogus documents. The Education Officer was misled and approval was procured on the basis of bogus documents.

4. The application of the respondent No. 2 was rejected on 11.01.2022 and against that Criminal Revision No. 07 of 2022 was preferred. By order dated 15.11.2022, the revision was partly allowed remanding the matter before the Trial Court. After remand, Magistrate passed order on 14.07.2023 allowing the application directing the police to conduct investigation U/Sec. 156(3) of the Code of Criminal Procedure.

5. In pursuance of the orders of the Magistrate, first information report was lodged on 15.07.2023 against the petitioner and others for the offence punishable U/Sec. 463, 464, 465, 468 and 471 of the Indian Penal Code.

6. The petitioners preferred Criminal Revision No. 25 of 2023 against the order dated 14.07.2023. The Revisional Court

dismissed the revision vide judgment and order dated 03.11.2023 recording that the petitioners remained absent despite extending opportunity to them and the matter was considered on merits and it was observed that serious offence was made out and investigation was necessary.

7. Learned counsel for the petitioner submits that self same application of the respondent No. 2 was dismissed initially, hence no case is made out. It is further submitted that Criminal M. A. No. 413 of 2021 was filed for the acts done in 2014 and, therefore, application was liable to be rejected. It is further submitted that, it would be abuse of process of law to proceed against the petitioners. There is no prima facie material against them.

8. Learned Assistant Government Pleader and the learned counsel Mr. Mahajan for the respondent No. 2 repel the submissions of the petitioners. They would submit that after following due procedure of law order U/Sec. 156(3) of the Cr. P. C. was passed and thereafter first information report was also registered. The matter is under investigation. There is no point in causing indulgence of this Court at this stage of the proceeding.

9. I have considered rival submissions of the parties. In the revisional court the petitioners did not appear for extending their submissions, though they were granted sufficient opportunity. No reasons are coming forth for not attending the matter before

the revisional court. Inference drawn by the revisional Court was that petitioners lost interest cannot be ruled out.

10. The revisional Court also dealt with merits of the matter. I have also independently examined contents of the Cri. M. A. No. 413 of 2021 and first information report bearing Cr. No. 367/2023. Prima facie, case is made out for registering the offence and proceeding against the petitioners and others. The petitioners and accused indulged in procuring the approval for co-accused on bogus and false documents. It is question of awarding service benefits from the public exchequer.

11. Considering overall aspects of the matter, I do not find that any case is made out to cause interference in the impugned order. Both the Courts below have taken reasonable and plausible view and arrived at proper conclusion. The matter is under investigation by the police.

12. For the reasons referred above, criminal writ petition is dismissed.

[SHAILESH P. BRAHME J.]

bsb/April 25