



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.407 OF 2023

Sandeep S/o Sahebrao Chaudhari,
Age-30 years, Occu:Advocate,
R/o-Dahegaon, Bolka,
Taluka-Kopargaon, District-Ahmednagar.

...PETITIONER

VERSUS

1) The State of Maharashtra,
Through Police Inspector,
Kopargaon Police Station,
Taluka-Kopargaon, District-Ahmednagar,

2) Hiralal Arjunrao Mahanubhav,
Age-55 years, Occu:Business,
R/o-subhadranagar, Kopargaon,
Tq-Kopargaon, District-Ahmednagar.

...RESPONDENTS

...
Mr. Abasaheb D. Shinde Advocate for Petitioner.
Ms. R.P. Gour, A.P.P. for Respondent No.1.
Mr. Kunal Kale h/f. Mr. Rajesh Mewara Advocate for
Respondent No.2
...

**CORAM: SMT. VIBHA KANKANWADI AND
ROHIT W. JOSHI, JJ.**

DATE : 24th MARCH, 2025

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

1. Present Petition has been filed, initially for quashing the

First Information Report (for short "the FIR") vide Crime No.75 of 2023, registered with Kopargaon City Police Station, District-Ahmednagar for the offence punishable under Sections 408, 385 read with Section 34 of the Indian Penal Code, and by way of amendment for quashing the Charge-sheet No.25 of 2023 i.e. the proceedings in R.C.C. No. 57 of 2023, pending before the learned Judicial Magistrate First Class, Kopargaon, District-Ahmednagar.

2. Heard learned Advocate Mr. Shinde for the petitioner, learned APP Ms. Gour for respondent No.1 and learned Advocate Mr. Kale holding for learned Advocate Mr. Mewara for respondent No.2. In order to cut short, it can be stated that the learned Advocates appearing for respective parties have argued in support of their contentions.

3. Respondent No.2 states that he is a news reporter. There is a trust by name, Kopargaon Taluka Vidyarthi Sahayyak Samiti. There are 8 to 9 institutions of the said trust which was established in the year 1993. The informant is the chairman of the said trust and the said trust runs Nursing College, D.Ed. College, ITI College, Law College, Primary and Secondary

School, at Kopargaon. One Devidas Narayan Badhe was appointed as a clerk since 12th June 2004. The informant states that on 14th February 2020, he could notice that said Devidas Badhe is addicted to liquor and was not doing his duty properly. When the informant asked him about the said behaviour and the work of Devidas, Devidas did not supply him information but behaved arrogantly with the informant. Therefore, informant asked Devidas not to work from Law College office but to work at Chakradhar Swami Secondary School, Kopargaon. The informant, chairman of the trust, asked Devidas to handover all the files and also an amount of Rs.35,000/- which he had taken towards the fees and also to handover the documents in respect of the bank account. However, Devidas did not comply with those directions and tried to avoid the same on one or the other pretext. The trust did not require the old documents from 2020 to 2022 till January 2023. But when the cupboard of Devidas was opened in his presence on 30th January 2023, the informant – chairman could see that the files and documents were missing. Initially Devidas promised to return the amount of Rs.35,000/-, documents, files and the stamps. But thereafter on 14th February 2023, Devidas told that the trust officials will not get the amount of fees and the fee receipt book and he would not pay the

amount of Rs.35,000/-. Devidas had stated that they should give an amount of Rs.50,000/- in cash to him then only he would disclose where the documents are. Devidas asked the amount to be given to his brother Ganesh Badhe and one Sandeep Chaudhari. Sandeep Chaudhari i.e. present applicant is stated to be the friend of Devidas. It was then also told by Devidas that the agricultural land belonging to stepmother of the present applicant should be returned to her and then he offered that if these demands are fulfilled, then he would give every document to the informant. Thus, according to the informant, the offence under Section 408, 385 read with Section 34 of the Indian Penal Code has been committed.

4. The first and foremost fact to be noted is that in the FIR, the informant is not clarifying, whether present applicant was present when alleged condition was put by Devidas before him. If something has been stated by Devidas behind the back of the present applicant, then the applicant is not responsible for the same. Now, by way of supplementary statement, the informant states that the applicant had met him on 18th February 2023 around 9.00 a.m. at Puntamba square and told him that he should not trouble Devidas any more. If the informant wants the

documents then the land which the informant has purchased from the stepmother of the applicant should be given back to her and amount of Rs.50,000/- to be paid to the applicant as well as said Devidas. Thus, in the supplementary statement, the informant is assigning the role to the present applicant and not earlier to that. Except his bare statement, there is nothing on record. As regards the incident dated 18th February 2023 is concerned, one Gorakhnath Nivrutti Winchu is the witness and then he says that when informant and present applicant were talking, this witness could gather that applicant was demanding the land of his stepmother and amount of Rs.50,000/-.

5. In order to prove an offence under Section 385 of the Indian Penal Code, the person who is committing extortion should put the another person in fear or attempt to put any person in fear of any injury, then it can be said that the ingredients of the said offence are made out. Here, taking into consideration the statement in respect of incident dated 18th February 2023, even the supplementary statement of the informant as it is, as well as of the witness Gorakhnath Winchu as it is, they had not stated that the present applicant had put the informant in fear in any manner. Thus, the ingredients are

absolutely not made out and therefore, it would be an abuse of process of law to ask the applicant to face the trial. Hence, we pass following order:-

ORDER

(I) The Writ Petition stands allowed.

(II) The Charge-sheet No.25 of 2023 i.e. the proceedings in R.C.C. No. 57 of 2023, of pending before the learned Judicial Magistrate First Class, Kopargaon, District-Ahmednagar, arising out of the First Information Report vide Crime No. 75 of 2023, registered with Kopargaon City Police Station, District-Ahmednagar for the offence punishable under Sections 408, 385 read with Section 34 of the Indian Penal Code, stands quashed and set aside as against petitioner - Sandeep S/o Sahebrao Chaudhari.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/APR25