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Cri.WP-448-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 448 OF 2025

1. Shankarrao Baburao Gaikwad

Age: 66 years, Occu: Business
R/o. Khilari Wasti, Ward No.6,
Shrirampur Tal. Shrirampur,
Dist. Ahmednagar.

2. Sangeeta Nandalal Pawar

Age: 52 years, Occu: Service,
R/o. Dattanagar, Tal. Shrirampur,
Dist. Ahmednagar.

...PETITIONERS

VERSUS

1. The State of Maharashtra

2. Gorakshanath Ganpat Dherange

Age: 45 years, Occu: nil.
R/o. Shirasgaon Tal. Shrirampur.
Dist. Ahmednagar.

...RESPONDENTS

Smt. Sakshi Ajit Kale, Advocate for the Petitioners.

Smt. M. N. Ghanekar, APP for Respondent No.1-State.

None for Respondent No.2.

CORAM : KISHORE C. SANT, J.

RESERVED ON : 4th JULY 2025.

PRONOUNCED ON : 28th JULY 2025.

ORDER :-

1. Though served, none appears for Respondent No.2. This Court has, therefore, decided to proceed with the hearing of the petition.
2. Heard Smt. Kale, the learned Advocate for the Petitioners and Smt. Ghanekar, learned APP for Respondent State.
3. The present petitioners have approached this Court for quashing and setting aside the order dated 21st February 2025, passed by the learned Additional Sessions Judge, Shrirampur in Criminal Revision Application No.30 of 2022, and to quash the order dated 12th December 2022 passed by learned Judicial Magistrate, First Class, Shrirampur in RCC No.746 of 2021. The petitioners are shown to be the accused in the proceeding before the learned JMFC. Regular Criminal Case came to be filed in the Court of learned Judicial Magistrate, First Class, Shrirampur, by respondent No.2 against the present petitioners, for the offences punishable under Sections 191, 192, 193, 196, 406, 420, 463, 464, 465, 466, 468, 470, 471, 474, 477-A read with 34 of the Indian Penal Code, 1860 (for short "IPC").

4. It is stated in the application that the complainant happens to be a qualified teacher working in the School, namely, Sau. Subhadrabai Baburao Gaikwad Primary School, Shrirampur, run by Shankarrao Gaikwad Gramin Education Society (hereinafter referred to as "School and Management", respectively). It is stated that the complainant works in the school honestly. However, he is not paid the salary. He was required to file a writ petition in this Court bearing Writ Petition No.1679 of 2010 wherein a false statement was made that salary was paid.

5. The inquiry was, therefore, made by the Education Officer (Primary), Zilla Parishad, Ahmednagar. In that proceeding, it is alleged that false and fabricated documents were produced for unlawful gain to the accused and unlawful loss to the petitioners. The complainant gave some instances. Inward and outward numbers mentioned in the documents are also fabricated; with such inward and outward numbers, no such record is available. Bogus staff recruitment is shown, etc.

6. The learned JMFC, Shrirampur, on going through the complaint, verification statement and evidence adduced by the complainant, was pleased to issue process against the present petitioners, for the offences punishable under Sections 191, 192, 193, 196, 406, 420, 463, 464, 465, 466, 468, 470, 471, 474, 477-A read with 34 of the IPC. The complaint came to be dismissed as against Respondent No.3 i.e., School Management. The petitioners challenged this order by filing Criminal Revision Application. The said Revision Application also came to be dismissed by the learned Additional Sessions Judge, Shrirampur. The petitioners are thus before this Court.

7. Smt. Kale, the learned Advocate for the petitioners, vehemently argued that an inquiry was already made by the Education Officer (Primary), Zilla Parishad, Ahmednagar. The complaint is filed only due to animosity, as the complainant was removed from service three times. His appeal is pending before the learned School Tribunal, Solapur. When his appeal is pending, in the meantime, he filed a complaint before this Court. An affidavit for the complainant is filed by the wife of the

complainant. Learned Advocate further submits that in 2010, a complaint was made before the authority. The learned Education Officer (Primary), Zilla Parishad, Ahmednagar, concluded that one Smt. Archana Popat Wakle i.e. the wife of the complainant, had taken a salary by signing on the muster when she was not actually working in this School. She submits that when Education Officer has given a report, the said report is not challenged by any of the parties. The present complaint is lodged with an oblique motive. The learned Sessions Judge failed to appreciate this case of the petitioners and has wrongly rejected the Revision Application. Learned Advocate further submits that the present petitioners happen to be office bearers of the School and Management. It was, therefore, necessary to obtain sanction prior to filing a complaint under Section 156(3) of Cr.P.C.

8. Learned APP however, supports the order.

9. This Court has gone through the order passed by the learned JMFC. It is considered by the learned JMFC that the allegations show

that no salary was paid to the complainant from 03.06.2002 to January 2010. The complainant, therefore, had approached this High Court. This Court, in Writ Petition No.1679 of 2010, directed the Education Officer (Primary), Zilla Parisha, Ahmednagar, to inquire into the matter. It is in that inquiry, the complainant alleged that the accused, in furtherance of their common intention, had created false documents and produced the same on record. The documents are of the appointment letter of complainant's wife. It is observed that the documents which are produced on record appeared to be forged and fabricated documents, such as salary slip, etc. The learned trial Court also considered the evidence. The order shows that the learned JMFC had minutely gone through the documents placed on record by the complainant. It is on recording preliminary satisfaction, the order of issuance of process was passed.

10. By looking at the judgment passed by the learned Additional Sessions Judge, Shrirampur, it is seen that the Court considered the allegations that the School record is tampered. Smt. Archana Wakale

was never appointed as a teacher in the School. However, still salary is shown to be paid to her from Government grant. The Court considered the report of the Education Officer wherein it is concluded that there are serious irregularities found. He also observed that misappropriation of Government fund was committed by the accused persons. Smt. Archana Wakale deposed that she did not attend the duty as a teacher in this School, and still her salary is shown to have been paid. It is mainly considered that the learned Magistrate has to apply his mind while issuing process. The learned Sessions Judge also considered the point of sanction under Section 197 of Cr.P.C.

11. It is well settled that while issuing process, the learned Magistrate has to apply his mind. The order of issuance of process should reflect that the Court has applied its mind, and it is, thereafter, the order of issuance of process is passed. In the present case, this Court has seen the order passed by the learned Magistrate and the learned Sessions Judge. The order passed by the learned Magistrate clearly shows the application of mind as he has considered the verification statement of the

complainant and the evidence of his wife, and it is on that count, the order is passed. The learned Sessions Judge has also considered that the learned Magistrate had passed an order by applying his mind. The learned Sessions Judge also considered the point of sanction under Section 197 of Cr.P.C. This Court does not find any illegality committed by any of the Courts. This Court does not find any merit in the present writ petition. The Writ petition, therefore, deserves to be dismissed. Hence, the following order:

ORDER

Criminal Writ Petition stands dismissed and disposed off.

[KISHORE C. SANT, J.]