



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 548 OF 2023

DHONDIBA @ DHONDIRAMJI VITHOBA SANAP
VERSUS
YUVRAJ CHORMALE AND OTHERS

Advocate for the Petitioner : Mr. Pramaod D. Pawar
APP for Respondents-State : Mr. V. M. Chate
Advocate for Respondents No. 1 to 7 : Mr. Sanjay D. Kotkar

CORAM : SACHIN S. DESHMUKH, J.

Date : 28th November, 2025

ORDER :-

1. The petitioner raises an exception to the judgment and order dated 01.02.2023, rendered by the learned Additional Sessions Judge – 2, Ambad, in Criminal Revision Application No. 37 of 2021, endorsing the order dated 18.12.2019 rendered by the learned Judicial Magistrate First Class, Ghansawangi, in Criminal Misc. Application No. 73 of 2018.

2. The petitioner has presented the complaint in relation to construction of Bhakt Niwas which was sanctioned in the year 2011. For the first time on 15.01.2018 the complaint was made with an assertion that the present respondents have conspired together and caused loss to the public exchequer to the tune of Rs.

12 lakh without raising the construction of Bhakt Niwas. No cognizance was taken by the Police Authority. As such, further complaint was made to the Superintendent of Police. In spite of the same, no steps were taken. Resultantly, the petitioner presented the complaint under Section 156(3) of the Code of Criminal Procedure (hereinafter "CrPC" for short) seeking registration of FIR.

3. The learned Magistrate dismissed the application considering the fact that there is nothing on record except bare statements that said temple trust was owned or possessed timbers, tins, windows and floors which are allegedly sold by the respondents and misappropriated the money.

4. Aggrieved by the same, the petitioner preferred Criminal Revision Application No. 37 of 2021, which came to be dismissed. Raising an exception to the same, the petitioner has approached this Court under Article 227 of the Constitution of India by way of present writ petition.

5. The learned counsel for petitioner submits that although the incident is of the year 2011, however, after obtaining the documents under the Right to Information Act, 2005, petitioner

approached to the police. Since no cognizance was taken by the Police Authority, the petitioner approached Superior Officer and eventually, presented the complaint for directions under Section 156(3) of CrPC. Perusal of the complaint unequivocally establishes the cognizable offences. As such, it was obligatory for the learned Magistrate to issue appropriate directions to register the offence. Both the Courts below have erred in rejecting the prayer of the petitioner. Hence, prayed to allow the petition.

6. In order to support the submissions, the learned counsel for petitioner has placed reliance on following decisions :-

- (i) **State of Punjab and Ors. Vs. Gudev Singh [(1991)4 SCC 1]**
- (ii) **State of Haryana and Ors. Vs. Bhajan Lal and Ors. [(1992)1 SCC 335]**
- (iii) **Common Cause Vs. Union of India and Ors. [(1996)6 SCC 667]**
- (iv) **Sakiri Vasu Vs. State of Uttar Pradesh [(2008)2 SCC 409]**
- (v) **Dr. Subramanian Swamy Vs. Dr. Manmohan Singh and Anr. [(2012)3 S.C.R. 52]**
- (vi) **Lalita Kumari Vs. Government of Uttar Pradesh [(2014)2 SCC 1]**
- (vii) **Priyanka Srivastava and Anr. Vs. State of Uttar Pradesh and Ors. [(2015)6 SCC 287]**

(viii) Inspector of Police and Anr. Vs. Battenapatla Venkata Ratnam and Anr. [(2015)13 SCC 87]

(ix) Vinubhai Haribhai Malaviya and Ors. Vs. State of Gujrat and Anr. [(2019)17 SCC 1]

7. Per contra, the learned APP and learned counsel for respondents No. 1 to 7 supported the orders rendered by the Courts below. The petitioner has failed to explain the delay caused in presenting the complaint after lapse of considerable period of time. The same is nothing but a sheer abuse of process of law. Hence, prayed for rejection of the petition.

8. I have heard the learned counsel for litigating sides and perused the entire record.

9. Although the petitioner while presenting the complaint to the police has leveled the allegations that the construction of Bhakt Niwas was never ever raised and a loss to the tune of Rs. 12 lakhs is caused. However, while presenting the complaint, the assertion from 'no construction' to 'construction' has been raised. However, the land in question is stated to be situated on the Trust property for which the permission is not obtained from the Charity Commissioner.

10. Thus, the fallacy in the allegations raised by the petitioner is apparent. Initially, the petitioner alleges no construction and then, there is a shift in allegation that no official permission is obtained from the Charity Commissioner for construction on the Trust property.

11. Nevertheless, these allegations have been raised after unexplained delay of almost 7 years. The attempt to justify the delay that it is only after receipt of documents under the Right to Information Act, does not warrant consideration. The petitioner is the resident of the same village and is also prosecuting the proceeding before the Charity Commissioner in relation to the Trust, cannot claim lack of knowledge.

12. In view of the above peculiar facts and circumstances, the judgments cited (supra) do not lend support to the contentions raised by the petitioner. As such, no error is noted in the order rendered by the learned Magistrate while dismissing the complaint as well as the order dismissing the Revision.

13. Resultantly, no case is made out for causing

interference in the impugned order. As such, petition *sans* merit and the same is accordingly dismissed.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi