IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1707 OF 2024

Nandkumar Vishnu Dudhal
Age: 51 years, Occu.: Service,
R/o. Office of Superintendent of Police,
Ahmednagar, Tq. And Dist. Ahmednagar .. ***Applicant***

Versus

1. The State of Maharashtra

2. Amit Parshuram Kute
Age: 28 years, Occu.: Hotel Business,
R/o. Nighoj, Tq. Rahata,
District Ahmednagar. .. ***Respondents***

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Mr. Satej S. Jadhav, Advocate for the applicant.
Mr. A. D. Wange, APP for respondent No.1/State.
Mr. R. L. Kute, Advocate for respondent No.2.

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CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.

RESERVED ON : 17 JANUARY 2025

PRONOUNCED ON : 19 MARCH 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present application has been filed by invoking the inherent powers of this Court under Section 482 of the Code of Criminal

Procedure for quashing the FIR vide Crime No.807 of 2023 registered with Shirdi Police Station, District Ahmednagar for the offences punishable under Sections 7A of the Prevention of Corruption Act.

2. Heard learned Advocate Mr. Satej S. Jadhav for the applicant, learned APP Mr. A. D. Wange for respondent No.1/State and learned Advocate Mr. R. L. Kute for respondent No.2.

3. It has been vehemently submitted on behalf of the applicant that the applicant was serving as Police Inspector with Shirdi Police Station. Respondent No.2 has filed complaint with the Anti Corruption Bureau contending that respondent No.2 was involved in an offence under Section 354 of the Indian Penal Code and the applicant had then prepared a proposal for externment of respondent No.2. Applicant and one Police Constable – Gadakh attached to the same police station contacted respondent No.2 stating that for not taking any action of externment or under M.P.D.A. he should give amount of Rs.1,00,000/- as bribe. Respondent No.2 had no intention to give the bribe and, therefore, he lodged the complaint. According to him verification was done and the conversation was recorded on 15.06.2023.

After the negotiations, the amount was settled at Rs.30,000/-. However, since the applicant could not meet him, it was decided that the amount would be given whenever the applicant would call him. On 26.07.2023, the voice recorder was given with new memory card and along with panch No.1, they were asked to meet Gadakh and applicant, at that time, the applicant had demanded amount of Rs.1,00,000/-. After the conversation, respondent No.2 had agreed to give amount of Rs.70,000/- and accordingly on 27.07.2023 arrangement for trap was made, however, neither the applicant, nor said Gadakh came to police station. It is then stated that Anti Corruption Bureau Officer thought that the applicant would have apprehended the trap and, therefore, had not come and will not accept the amount from respondent No.2 and, therefore, ultimately the final complaint was lodged i.e. FIR on 29.08.2023. All these events would show that there was a huge delay in lodging the report. Neither there is acceptance, nor any such conversation which would show that there was any demand. In fact, the present applicant had made complaint with the superior that respondent No.2 is trying to give money forcibly either to the applicant or to Mr. Gadakh. The action is tainted with *mala fides*. The complaint regarding attempt to offer illegal gratification has been made on 27.07.2023 to Deputy Superintendent of Police, Anti Corruption Bureau, Ahmednagar. The ingredients of the offence under Section 7A of the Prevention of Corruption Act are not at all attracted. The present case is a classic case of misuse and arbitrary influence to deter a public servant from doing his duties. The applicant had entered the police station for serving him notice under Section 91 of the Code of Criminal Procedure demanding relevant documents for the offence under the Immoral Traffic (Prevention) Act, 1956, (for short "PITA Act"). The first verification panchama was carried out on 15.06.2023 and the FIR has been lodged after a delay of 41 days. Even from the second panchanama, it is lodged after 33 days. In the Court i.e. Trial Court, in the process of bail, it had come on record that Mr. Gadakh's family had old relations with respondent No.2 and the co-accused Gadakh had extended hand loan to brother of informant and, therefore, that amount might have been demanded. It has nothing to do with the present applicant. He would require to face the trial unnecessarily.

4. Per contra, learned APP has submitted that most of the investigation is over. The present applicant had also filed an application with the Headquarters of Anti Corruption Bureau,

wherein he has been shown as suspect and the investigation is pending as regards co-accused Gadakh. His application for anticipatory bail was rejected by the Special Court, Kopargaon. Then he had approached this Court, however, he had withdrawn his application. Now, the investigation is pending in respect of Gadakh.

5. Learned Advocate for respondent No.2 informant has submitted that the investigation is still going on. Few facts are admitted that the present applicant had prepared proposal for the externment of the applicant and certainly therefore there is a base for the demand. Whatever the conversation had taken place on two occasions has been recorded. In the second conversation, present applicant is involved. It is the contention of respondent No.2 that the said amount was demanded by the applicant through Constable Gadakh and, therefore, let the investigation be completed and the investigating officer to come to a definite conclusion.

6. As the facts are emerging, it can be seen that the applicant is relying upon only the contents of the FIR and his own documents for quashment, but he is not aware fully regarding the

panchanamas, as to what was the conversation that has been stated to be recorded through voice recorder which is there in the panchanama by way of transcript. The Anti Corruption Bureau has stated that present applicant is a suspect in the matter and it appears from the written communication by the investigating officer to the learned APP that the investigating officer has not brought the applicant in the array of accused i.e. the accused who is required to be arrested as on today. When he is still a suspect and even the investigating officer has not come to any definite conclusion as well as he says that he has received the application by the present applicant to the Headquarters stating that he should be relieved from the FIR, which is still under consideration, we are of the opinion that it would be a premature exercise if we proceed to consider the evidence and observe anything. There are statements of the panch witnesses those have also been recorded along with the transcript of the conversation in the voice recorder. Though the trap was laid, it could not be successful and on the next date of the trap, then the present applicant appears to have made complaint to the Anti Corruption Department stating that the informant is intentionally trying to thrust the money. Certainly, the facts demand that the investigation should be taken to the logical end and, therefore, we do not find this to be a fit case where we can exercise our powers under Section 482 of the Code of Criminal Procedure at this stage. Application therefore stands rejected.

[ROHIT W. JOSHI]	**[SMT. VIBHA KANKANWADI]**
JUDGE	**JUDGE**

scm