



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1955 OF 2025

Vilas s/o Anandsing Rajput
Age: 56 years, Occu.: Service,
R/o. Maharana Pratap Chowk,
Chansawangi Fata, Ambad,
Tq. Ambad, Dist. Jalna

.. Applicant

Versus

1. The State of Maharashtra
Police Inspector and I.O.
Tembhurni Police Station,
Tq. Jafrabad, Dist. Jalna.
2. Keshav Annarao Dakale
Naib Tahsildar, Jafrabad,
Tq. Jafrabad, Dist. Jalna.
Age: 49 years, Occu.: Service,
R/o. Georai, Tq. Phulambri,
District Chhatrapati Sambhajinagar.

.. Respondents

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CRIMINAL APPLICATION NO.1973 OF 2025

Eknath Chelaji Sonawane
Age: 58 years, Occu.: Retired,
R/o. Balanagar, Pachod Road,
Ambad, Tq. Ambad, Dist. Jalna.

.. Applicant

Versus

1. The State of Maharashtra
Police Inspector and I.O.
Tembhurni Police Station,
Tq. Jafrabad, Dist. Jalna.
2. Keshav Annarao Dakale
Naib Tahsildar, Jafrabad,
Tq. Jafrabad, Dist. Jalna.
Age: 49 years, Occu.: Service,
R/o. Georai, Tq. Phulambri,
District Chhatrapati Sambhajinagar.

.. Respondents

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CRIMINAL APPLICATION NO.1974 OF 2025

Ashok s/o Narayan Bore
Age: 61 years, Occu.: Retired,
R/o. Kalikurti Road, Behind Shani
Mandir, New Jalna, Tq. And Dist. Jalna.

.. Applicant

Versus

1. The State of Maharashtra
Police Inspector and I.O.
Tembhurni Police Station,
Tq. Jafrabad, Dist. Jalna.
2. Keshav Annarao Dakale
Naib Tahsildar, Jafrabad,
Tq. Jafrabad, Dist. Jalna.
Age: 49 years, Occu.: Service,
R/o. Georai, Tq. Phulambri,
District Chhatrapati Sambhajinagar.

.. Respondents

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CRIMINAL APPLICATION NO.1975 OF 2025

Ganesh s/o Nandaji Tangade
Age: 54 years, Occu.: Service,
R/o. Ganesh Nagar, Giroli Road,
Deolgaon Raja, Dist. Buldhana

.. Applicant

Versus

1. The State of Maharashtra
Police Inspector and I.O.
Tembhurni Police Station,
Tq. Jafrabad, Dist. Jalna.
2. Keshav Annarao Dakale
Naib Tahsildar, Jafrabad,
Tq. Jafrabad, Dist. Jalna.
Age: 49 years, Occu.: Service,
R/o. Georai, Tq. Phulambri,
District Chhatrapati Sambhajinagar.

.. Respondents

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Mr. Yogesh Bolkar, Advocate h/f Mr. Kakasaheb B. Jadhav, Advocate for the applicants in all the applications.

Mr. V. K. Kotecha, Mr. A. D. Wange, Mr. A. R. Kale and Mr. G. A. Kulkarni, APPs for respondent No.1/State in respective applications.

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**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 26 JUNE 2025

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

. Present applications have been filed by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing the proceedings in R.C.C. No.116 of 2023 pending before the learned Judicial Magistrate First Class, Jafrabad arising out of the FIR vide Crime No.73 of 2022 registered with Tembhurni Police Station, Taluka Jafrabad, District Jalna for the offences punishable under Sections 406, 409, 202, 465, 468 and 471 of Indian Penal Code.

2. Heard learned Advocate Mr. Yogesh Bolkar holding for learned Advocate Mr. Kakasaheb B. Jadhav for the applicants in all the applications, learned APPs Mr. V. K. Kotecha, Mr. A. D. Wange, Mr. A. R. Kale and Mr. G. A. Kulkarni for respondent No.1/State in respective applications. In order to cut short, it can be seen that all of them have made submissions in support of their respective contentions.

3. Present applicants are arrayed as accused No.18, 16, 17 and 18 in the FIR respectively and accused No.12, 10, 11 and 2 in the charge-sheet respectively. Applicant Vilas Rajput and Applicant Eknath Sonawane were the Circle Officers, applicant Ashok Bore was the Talathi, however, he was given additional charge of Circle Officer and applicant Ganesh Tangade was the Talathi when the FIR was lodged. However, they stood retired thereafter. The FIR has been lodged by one Keshav Annarao Dakle, the Naib Tahsildar of Jafrabad. It has been stated that a complaint was filed with Hon'ble Lok Ayukta, Maharashtra State, in respect of encroachment of Government land in village Tembhurni, Taluka Jafrabad. Directions were issued to make inquiry. Accordingly, inquiry was made and order was given by then Divisional Commissioner, Aurangabad Division on 25.03.2021 that offence should be registered against the then Tahsildar, Circle Officer and Talathi. It is then stated that in all 22 persons have been found to be responsible for not paying attention to the encroachment those were made on the government land. They had not made any efforts to evict the encroachment and thereby loss is caused to the Government. Here, it is to be noted that the period in which that alleged encroachment is made is stated to be from 15.03.1980 till the date of FIR i.e. 15.03.2022. Even if it is accepted that there is encroachment on the government land, yet how it will amount to offence under Sections 406, 409, 202, 465, 468,

471 of Indian Penal Code is a question. For proving offence under Section 406 of Indian Penal Code, prosecution will have to prove that there was criminal breach of trust. The period of applicant Vilas Rajput and applicant Eknath Sonawane as Circle Officer of Tembhurni were in between 24.10.2016 to 02.01.2020 and 13.05.2013 to 06.06.2016 respectively, whereas the period of applicant Ashok Bore as Talathi/Additional Charge of Circle Officer of Tembhurni was in between 07.06.2016 to 24.10.2016 and the period of applicant Ganesh Tangade as Talathi of Tembhurni was in between 03.07.2013 to July 2018. The encroachment was since prior to that date. Therefore, they cannot be said to be interested with any property or had dominion over the property and they had not dishonestly misappropriated or converted that property to their own use. Therefore, neither Section 406 of Indian Penal Code, nor Section 409 of Indian Penal Code get attracted. For proving offence under Section 202 of Indian Penal Code, there should have been intentional omission to give any information of that offence which he is legally bound to give. Here, in this case, those persons who had made encroachment are not at all made party accused. Which documents have been forged and used in any proceedings are absolutely not clarified in the FIR. The statements of witnesses are cryptic and it can be seen that statements of only seven witnesses have been recorded, who had no concern at all or were not at the said place or the higher authority

of the applicants or other accused persons. Therefore, none of the offences are made out even *prima facie*. On 23.06.2025, we had heard the learned Advocate for the applicants. It was noted that in respect of co-accused - Mansing Chatru Rathod (Criminal Application No.412 of 2023 dated 26.02.2025), this Court had already quashed and set aside the charge-sheet. The only question which remain for deliberation in addition, which was missed in earlier decision, was on the point of sanction under Section 197 of the Code of Criminal Procedure. It was taken note that the charge-sheet does not bear the copy of sanction and the said fact was admitted by learned APP. There is a letter given to Collector for filing charge-sheet, but reply to the same/sanction by the Collector was not produced and, therefore, on that day, learned APP sought time to verify the situation. Today, learned APP, upon instructions, submits that no sanction has been given by the learned Collector to prosecute the applicants. Admittedly, the cognizance has been taken by the learned Magistrate as the charge-sheet came to be filed on 24.07.2023. That means the cognizance has been taken without adhering to the provisions of Section 197(1)(b) of the Code of Criminal Procedure and, therefore, it would be total abuse of process of law, if the applicants are asked to face the trial. Case is made out for exercising inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, the following order :-

ORDER

- I) All the Criminal Applications stand allowed.
- II) The FIR bearing Crime No.73 of 2022 registered with Tembhurni Police Station, Taluka Jafrabad, District Jalna as well as the proceedings in R.C.C. No.116 of 2023 pending before the learned Judicial Magistrate First Class, Jafrabad for the offences punishable under Sections 406, 409, 202, 465, 468 and 471 of Indian Penal Code, stand quashed and set aside as against the present applicants in all the applications.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm