



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1244 OF 2025

1. Ramesh Waman Tribhuvan
Age: 58 years, Occu.: Business,
2. Mangesh Waman Tribhuvan
Age: 48 years, Occu.: Business and Social Work
3. Rajendra Waman Tribhuvan
Age: 62 years, Occu.: Retired
All R/o Lakshmi Nagar, Shirdi,
Tq. Rahata, Dist. Ahmednagar
4. Sanjay Waman Tribhuvan,
Age: 52 years, Occu.: Service,
R/o Mauli Nagar, Pimpalwadi Road,
Shirdi, Tq. Shirdi, Dist. Ahmednagar

..PETITIONERS

VERSUS

1. The Police Inspector, Shirdi Police Station
Shirdi Police Station
2. XYZ

..RESPONDENT

....

Mr. K.P Rodge, Advocate for petitioners
Mr. D.B. Bhange, A.P.P. for respondent no.1 – State
Ms. Karishma Sarin, Advocate for respondent no.2 (appointed)

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CORAM : ABHAY J. MANTRI, J.
DATE : 25th NOVEMBER, 2025

ORAL JUDGMENT :

1. Heard. **Rule.** Rule is made returnable forthwith and heard finally by consent of the learned counsel for the respective parties at the admission stage.

2. The petitioners, being aggrieved by the order dated 26th May, 2025, passed by the learned Additional Sessions Judge, Rahata, below Exh. 10 in Sessions Case No. 134 of 2024 (Old Sessions Case No. 39 of 2020), thereby rejected the application filed by the petitioners to discharge them from the proceeding, have preferred this petition.

3. On the last date, after hearing the parties, a query was put to the learned A.P.P. and learned counsel for Respondent No.2 to point out from the F.I.R. or the entire charge-sheet as to how the ingredients of the offence under Section 420 of the Indian Penal Code (for short, '*I.P.C.*') disclose the existence of the constituting the offence u/s 420 of the I.P.C. against the present petitioners. Accordingly, as requested by them, the matter was adjourned.

4. It is pertinent to note that today, learned A.P.P. as well as learned counsel for Respondent No.2, on going through the entire charge-sheet, have submitted that no any allegations appear against the petitioners to disclose the existence of the constituting the offence u/s 420 of the I.P.C. against the present petitioners, but vague averments appear in the F.I.R. that they were aware about the relationship between the informant/victim and the Accused No.1 – Akash. The above statements, by themselves, are sufficient to consider the petitioners' application.

5. Perused the impugned order. The learned Additional Sessions Judge only observed that the names of the petitioners are specifically mentioned in the F.I.R. and, therefore, has erred in holding that, in such

circumstances, it cannot be said that the accused have made a prima facie case to discharge them from the proceedings. However, the said observation appears to be contrary to the settled principle of law as well as the facts on record, and therefore, the same cannot be sustainable in the eyes of the law. Mere mention of the names of the petitioners in the F.I.R. or the Charge sheet is not sufficient to constitute the offence u/s 420 of the IPC against the present petitioners or to conduct the proceeding against them as an accused. Moreover, no material or allegations appear against them to constitute the offence of cheating. In the absence of any material on record to prima facie show that the petitioners have dishonestly or fraudulently induced the informant, and thereby deceived her or intentionally induced her to do or omit to do anything which she would not do or omit if she were not so deceived. As such, prima facie, the ingredients of Section 420 of the IPC are not attracted against the present petitioners. Similarly, there are no allegations against the petitioners of having committed other offences.

6. Thus, considering the above discussion, in my view, the order passed by the learned Additional Sessions Judge is not sustainable in the eyes of the law, and requires to be set aside in the writ jurisdiction.

7. That being so, the criminal writ petition is allowed. The impugned order dated 26th May, 2025, passed by the Additional Sessions Judge, Rahata, below Exh. 10 in Sessions Case No. 134 of 2024 (Old Sessions Case No. 39 of 2020), is hereby quashed and set aside. As a sequel, the application (Exhibit

10) in Sessions Case No. 134 of 2024 is hereby allowed. The petitioners are discharged from the present proceeding. Inform the order to the learned trial Court. The rule is made absolute.

8. Ms. Karishma Sarin, learned counsel, is appointed by this Court to represent Respondent No.2 by order dated 17th October, 2025. Therefore, her fees are to be quantified and paid in accordance with the law.

(ABHAY J. MANTRI, J.)

SSD