



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

69 CRIMINAL WRIT PETITION NO.1715 OF 2022

Amin s/o Budhan Shaikh

.. Petitioner

Versus

1. State of Maharashtra
Through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai.
2. Superintendent of Police,
Ahmednagar,
Tq. And Dist. Ahmednagar.
3. Upper Superintendent of Police,
Shrirampur, Tq. Shrirampur,
District Ahmednagar.
4. Deputy Superintendent of Police,
Shirdi, Tq. Rahata, Dist. Ahmednagar.
5. Rahata Police Station,
Tq. Rahata, District Ahmednagar.

.. Respondents

...
WITH

CRIMINAL APPLICATION NO.3862 OF 2023
IN WP/1715/2022

ANJUM EAJ KHAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. M. K. Bhosale, Advocate for the Petitioner in WP/1715/2022.
Mr. G. A. Kulkarni, APP for Respondents/State.
...

**CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.**

DATE : 24 SEPTEMBER 2025

ORDER :

. Present petition has been filed for issuing writ to direct the respondent to add Section 467 and other Sections in the FIR vide Crime No.440 of 2022 and directions to add higher officials of the forest department as accused in the said crime.

2. Heard learned Advocate Mr. Mahesh K. Bhosale for the petitioner and learned APP Mr. G. A. Kulkarni for respondents/State.

3. Learned Advocate appearing for the petitioner submits that respondent No.3 had carried out the inquiry, which was in pursuant to the order passed by this Court in Criminal Writ Petition No.1380 of 2021 dated 10.06.2022. Though it appears that Section 467 was added while registering the FIR, it has thereafter been deleted. The ingredients of the said Section are made out and certain higher officers of the Forest Department have been intentionally left out.

4. Here, the petitioner has invoked the constitutional powers of this Court under Article 226 of the Constitution of India. The investigation is still pending. The FIR is not an encyclopedia. No doubt, from the bare perusal of the FIR it can be seen that Section 467 of Indian Penal Code was there at the time of registration, later on it appears to have been erased, but the admitted position is that the investigation is still pending.

Under such circumstance, if the investigation reveals further facts including that of the ingredients of Section 467 of Indian Penal Code, then definitely the concerned authority will have to take cognizance of it. Even if that is not mentioned in the charge-sheet, yet the Magistrate who takes the cognizance of the matter can subsequently add it. Same is the case as regards the accused persons to be made. Unless their involvement is clear and evidence is collected to that effect, they cannot be added as an accused. The inquiry report may be the base, but there has to be an independent evidence. Even if they are not added in the charge-sheet, there is still provisions of Section 319 of the Code of Criminal Procedure, which permit the Court to add the accused persons. Under such circumstance, better and efficacious remedy is available. Therefore, this is not a fit case where we should exercise our constitutional powers under Article 226 of the Constitution of India.

5. The writ petition stands dismissed.

6. In view of disposal of Criminal Writ Petition No.1715 of 2022, Criminal Application No.3862 of 2023 also stands disposed of.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm