



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3900 OF 2023

Vikas S/o Shivaji Shete,
Age-35 years, Occu:Business,
R/o-Near Hotel Shivsagar, Manchar,
Taluka-Ambegaon, District-Pune.

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through: I/O Police Station,
Kopargaon City, Taluka-Kopargaon,
District-Ahmednagar,
- 2) Jitendra S/o Sudhakar Divekar,
Age-34 years, Occu:Service at
Sahkar Maharshi Shankarrao Kolhe
Cooperative Sugar Factory,
Sahajananadnagar, Shingnapur,
Taluka-Kopargaon, District-Ahmednagar,
R/o-Khadaki, Taluka-Kopargaon,
District-Ahmednagar.

...RESPONDENTS

...
Mr. Anup R. Nikam Advocate for Applicant.
Mr. P.S. Patil, Additional P.P. for Respondent No.1.
Mr. Rahul B. Temak Advocate for Respondent No.2.
...

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

DATE : 11th JULY, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed for quashing the Charge-sheet No.83 of 2023 and further consequential proceedings, arising out of the First Information Report (for short "the FIR") vide Crime No. 265 of 2023 registered with Kopargaon City Police Station, District-Ahmednagar on 6th June 2023, for the offence punishable under Sections 452, 420, 511, 323, 427, 109 read with Section 34 of the Indian Penal Code.

2. Heard learned Advocate Mr. Nikam for the applicant, learned Additional P.P. Mr. Patil for respondent No.1 and learned Advocate Mr. Temak for respondent No.2.

3. Learned Advocate appearing for the applicant has taken us through the entire charge-sheet and submits that the present applicant has been arrayed as accused No.3. The informant, respondent No.2 is serving as watchman with Sahakar Maharshi Shankarrao Kolhe Cooperative Sugar Factory, Sahajananadnagar, Shingnapur, Taluka-Kopargaon, District-Ahmednagar. He states that his duty was from 12.00 noon to 8.00 p.m., on 5th June 2023. Around 12.10 p.m., two persons came at the main gate, introduced themselves as Aannasaheb

Saloba Gadekar (accused No.1) and Harish Nagraj Gauda (accused No.2). They made entry on the visit register and by saying that they want to inspect the scrap lot, they went inside the factory premises. The informant states that instead of going to the scrap lot, those persons were roaming here and there and then went to the weighing office in the factory premises around 12.45 p.m. They entered the said office without permission and with the help of instruments in the small tool kit, they caused damage to the wiring of the weighing machine in the weighing office and they were about to stop the weighing machine. At that time, they were spotted by the factory clerk Sharad Shinde, who then informed the said fact to the informant and Sachin Pawar, A.J. Bhagwat. Therefore, all those persons went to take those two persons in custody. Those two persons were trying to escape but they were overpowered. Upon inquiry, they told that they were doing the said act on the say of the present applicant. Learned Advocate for the applicant then submits that except the said statement alleged to be made by the co-accused, there is nothing on record. The other witnesses are also saying the same thing. The applicant was not present near the said weighing office and therefore, it would be an abuse of process of law if he is asked to face the trial.

4. Per contra, the learned Additional P.P. and learned Advocate for respondent No.2 strongly objected the application and submitted that the present applicant has taken the contract of the scrap material and in order to take wrongful gain he sent those two persons to manipulate the weighing machine and those two persons were caught raid handed. There are statements of witnesses and in presence of the witnesses there, the said statement has been made, which can be proved against the present applicant also.

5. As the facts have been already narrated, we do not want to repeat the same. The only evidence that appears to be against the present applicant is the statement of the co-accused. Though it is stated to have been made in presence of the informant and the other employees of the said sugar factory, yet it cannot amount to extra judicial confession as against the present applicant. An accomplice cannot be so booked for the commission of offence by another and therefore, the said statement alleged to have been made by the co-accused cannot bind legally the present applicant. Therefore, it would be an

abuse of process of law if the applicant is asked to face the trial.

Hence, we pass following order:-

ORDER

(I) The Application stands allowed.

(II) The Charge-sheet No.83 of 2023 and further consequential proceedings, arising out of the First Information Report vide Crime No. 265 of 2023, registered with Kopergaon City Police Station, District-Ahmednagar on 6th June 2023, for the offence punishable under Sections 452, 420, 511, 323, 427, 109 read with Section 34 of the Indian Penal Code, stands quashed and set aside as against applicant - Vikas S/o Shivaji Shete.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/JULY25