



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1963 OF 2024

ANIL YESHWANT KALOKHE
VERSUS
THE STATE OF MAHARASHTRA

Advocate for the Petitioner : Mr. Nasimoddin R. Shaikh
APP for Respondent No. 1-State : Mr. V. M. Chate
Advocate for Respondent No. 2 : Ms. Pooja V. Langhe

CORAM : SACHIN S. DESHMUKH, J.

Date : 12th November, 2025

ORDER :-

1. The petitioner has raised an exception to the judgment and order dated 23.09.2024 rendered by the learned Additional Sessions Judge, Jalgaon in Criminal Revision Application No. 42 of 2023, confirming the order dated 21.03.2023 rendered by the learned Judicial Magistrate First Class, Pachora, in Regular Criminal Case No. 200 of 2014 below Exh. 47.

2. The petitioner who was working as Field Revenue Officer (Talathi) of village Nagardeola, Tq. Pachora, Dist. Jalgaon, issued a Succession Certificate in relation to property that is situated at village Nimgul of revenue district of Dhule. In relation to the same, the FIR came to be registered vide Crime No. 48 of 2014 for the offences punishable under Sections 420, 409, 406,

120B, 109, 419, 464, 468 and 471 read with 34 of Indian Penal Code (hereinafter "IPC" for short). Accordingly, the Investigating Officer carried out the investigation and eventually, submitted the charge-sheet.

3. The Petitioner/Accused, thereafter filed an application under Section 227 of Code of Criminal Procedure (hereinafter "CrPC" for short) before the Ld. Trial Court seeking discharge on the solitary ground that the necessary sanction as is contemplated under Section 197 of CrPC is not obtained.

4. The learned Magistrate, considering the material on record observed that the alleged offenses is in personal capacity and was not in discharge of official duties. As such, the sanction under Section 197 of CrPC was not warranted and resultantly, rejected the application presented by the petitioner.

5. Raising an exception to the same, the petitioner preferred a Revision Application before the learned Additional Sessions Judge, which came to be rejected endorsing the order rendered by the learned Magistrate.

6. The learned counsel for petitioner has vehemently submitted that the petitioner has issued the succession certificate in his official capacity since he was working as the Talathi. As such, the necessary sanction ought to have been obtained before initiating the criminal prosecution. In order to support submissions, the learned counsel for petitioner has relied upon following judgments.

- (a) Amod Kumar Kanth Vs. Association of Uphaar Tragedy and Anr. (Criminal Appeal No. 1359 of 2017) delivered by Hon'ble Supreme Court on 20.04.2023.**
- (b) G. C. Manjunath and Ors. Vs. Seetaram (AIROnline 2025 SC 308)**
- (c) Prakash Vs. Stae of Maharashtra [2018(2) AIR BomR (Cri.) 423]**
- (d) Arvind Sethi Vs. Union of India, (Writ Petition No. 5900 of 2019) delivered by this Court on 09.01.2024**

7. Per contra, the learned APP for State and the learned counsel for respondent No. 2 supported the order under challenging and prayed for dismissal of the petition.

8. The learned counsel for respondent No. 2 invited the attention of this Court to the fact that the petitioner had no

authority in law to issue the certificate in question since the petitioner was officer in charge of the Nagardeola village which forms part of the revenue district of Jalgaon. Whereas, the subject property is situated within the jurisdiction of the village Nimgul, District Dhule, which is distinct revenue district.

9. The learned counsel for respondent No. 2 has further submitted that the succession certificate issued on date 11.04.2012; whereas, the affidavit presented in the process of obtaining succession certificate, is after the issuance of the certificate i.e. on 10.05.2012, indicating and establishing a procedural illegality.

10. In order to support the submissions, the learned counsel for respondent No. 2 has relied upon following decisions.

- (a) Chandan Kumar Basu Vs. State of Bihar [(2014)3 SCC 71]**
- (b) K. Ravi Vs. State of Tamil Nadu and Anr. (2024 SCC OnLine SC 2283)**
- (c) Shadakshari Vs. State of Karnataka and Anr. (2024 SCC OnLine SC 48)**

11. I have considered the submissions advanced by the litigating sides. Perused the entire record.

12. It is a matter of record that the petitioner was working as a Talathi of district Jalgaon whereas the subject property is situated at village Nimgul, Dist. Dhule. Therefore, by any stretch of imagination, it cannot be regarded that at any point of time, the petitioner has ever had authority in law to issue the certificate in question in relation to property falling outside the jurisdiction.

13. Nonetheless, the fact remains that necessarily, the affidavit is mandatorily required to be filed before the competent authority in the process of obtaining the certificate. However, perusal of the record indicates demonstrates the succession certificate is issued prior to the filing such affidavit. Thus, the Petitioner has had no occasion or authority to issue the certificate in question.

14. When confronted with the issue of jurisdiction, vis-a-vis, the discrepancy in dates of affidavit and certificate, the learned counsel for petitioner attempted to claim it is a case of negligence.

15. Thus, the petitioner has misused the authority vested with him by doing things those are not otherwise permitted under the law. As such, the petitioner cannot claim protection under

Section 197 of CrPC and the act of petitioner issuing certificate will have to be considered de hors the duties which a public servant is required to discharge or perform.

16. In my considered opinion, the successive lapses cannot be regarded as mere negligence. The petitioner was conscious of the fact that he is the Field Revenue Officer having charge of the Jalgaon District; whereas, the subject property is of a distinct and separate district Dhule. Therefore, the plea of negligence can't be accepted.

17. As far as the decisions on which the reliance is placed by the petitioner is concerned, the same is of no avail to the petitioner since the facts of the present case are peculiar and distinct.

18. In view of the aforesaid discussion, the petitioner had no authority to issue the Succession Certificate. Therefore, the Courts below have rightly and properly rendered the findings with regard to the act of issuance of Succession Certificate by the petitioner, which cannot be considered as the part of official discharge of duties. Thus, no case is made out for interference by this Court.

19. Resultantly, the petition does not warrant any consideration and the same is **dismissed**.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi