



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 CRIMINAL APPLICATION NO.4295 OF 2023

Kiran Ishwarlal Ahire,
Age 35 yrs., Occ. Marketing,
R/o Takali (Pra. Cha), Tq. Chalisgaon,
Dist. Jalgaon.

... Applicant

... **Versus** ...

The State of Maharashtra
Through Investigating Officer,
Police Station, Hadgaon,
Tq. Hadgaon, Dist. Nanded.

... Respondent

...

Mr. P.B. Patil (Borse), Advocate for applicant

Mr. V.K. Kotecha, APP for sole respondent

...

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

DATE : 10th JUNE, 2025

ORDER : (**PER : SMT. VIBHA KANKANWADI, J.)**

Information Report vide Crime No.169/2023 dated 31.07.2023 registered at Police Station, Hadgaon, Tq. Hadgaon, Dist. Nanded, for the offence punishable under Sections 489-B and 489-C of the Indian Penal Code, 1860 and later on by way of amendment for quashing the proceedings in Sessions Case No.236/2023 pending before learned Additional Sessions Judge, Nanded.

2 Heard learned Advocate Mr. P.B. Patil (Borse) for applicant and learned APP Mr. V.K. Kotecha for sole respondent.

3 Learned Advocate appearing for applicant submits that name of applicant is not reflected in First Information Report lodged by informant Dashrath Kishan Muneshwar. Informant was serving on a Petrol Pump in Hadgaon. Around 11.30 p.m. on 30.07.2023 a boy came for filling petrol. He asked the informant to give him petrol of Rs.300/-, therefore, he filled the petrol worth Rs.300/- in the petrol tank of motorcycle of the boy. The said boy gave three notes of denomination of Rs.100/- as the price of petrol and started to go away. But, at that time, informant became suspicious about the currency notes. He asked the said boy to give other notes, as those currency notes are fake, but the said boy started avoiding and raising quarrel with him. Therefore, the informant had taken the keys of motorcycle, noted the

motorcycle number and in the mean time somebody had given a phone call to the police. Police arrived and name of boy was transpired as 'Omprakash Jaywantrao Kadam'. It is the prosecution story in the remand report that the name of present applicant got transpired as the mediator between one Dixit Sharma and Ankit Adagale. No evidence has been collected in the charge sheet to show this connection. Therefore, it would be a futile exercise to ask the applicant to face the trial.

4 Learned APP admits that in First Information Report the name of present applicant is not reflected, however, his name is transpired during investigation. Certain raids have been conducted and seizures have been made. In the seizure of mobile phones frequent calls were taken note of and then upon inquiry it was found that present applicant was acting as mediator. Accused Ankit Adagale gave information that he came in contact with Dixit Sharma, who was running the racket of fake currency notes through present applicant. Now, the call records in the mobile phones are required to be checked and for that purpose mobile phones have been sent for the analysis to Forensic Science Laboratory. The said report is awaited and hence, it would be premature to quash First Information Report and proceedings against present applicant.

5 Since the fact is admitted that name of present applicant is not reflected in First Information Report, we do not want to make much deliberations in respect of First Information Report. The boy from whom the alleged fake currency notes were seized is one Omprakash Jaywantrao Kadam. It appears that thereafter during the course of investigation name of one Ankit Arjun Adagale and Dixit Sharma figured. There are certain seizures and discoveries by co-accused and not by the present applicant. It is stated that his role was as a mediator. We are surprised to note that Investigating Officer has not made any investigation as to how the applicant can be said to be a mediator or in other words, there is no such documents on record to show that present applicant had acted as mediator. If the prosecution is relying upon the statement of co-accused Ankit Adagale then the said statement or disclosure has no evidentiary value. Even if we take the fact as it is that in the mobile phone there might be a data showing that there were calls between either present applicant and Ankit Adagale or present applicant with Dixit Sharma, but the basic nature of such evidence is corroborative in nature and unless there is some primary evidence only corroborative evidence cannot be considered as against the present applicant. Further, if we consider the other documents in the charge sheet independently, there is no evidence to show that as a mediator whether the present applicant had received any monthly benefits. When the scope was

available for investigation, it has not been done and, therefore, from the available charge sheet it would be an abuse of process of law to ask the applicant to face the trial. Therefore, this is a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) The proceedings in Sessions Case No.236/2023 pending before learned Additional Sessions Judge, Nanded arising out of First Information Report vide Crime No.169/2023 dated 31.07.2023 registered at Hadgaon, Tq. Hadgaon, Dist. Nanded, for the offence punishable under Sections 489-B and 489-C of the Indian Penal Code, 1860, stands quashed and set aside as against applicant viz. **Kiran Ishwarlal Ahire**.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)