

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.3201 OF 2018

1. Shri.Rajendra Baban Kamble
Age: 54 years, Occ. Service,
R/o. Plot No.3, Prasad CHS,
Sadar Bazar, Satara.
2. Shri.Rajendra Waman Doiphode
Age: 51 years, Occ. Service,
R/o. flat No.6, Shreekunj,
Mayureshwar colony, Karanje,
Satara.
3. Shri.Bharat Sampat Ranavare
Age: 52 years, Occ. Service,
R/o. Ishwari Residency,S-1,
Kalyani Park, Sadar Bazar,Satara.
4. Ms.Sunita Rathod
Age: 32 years, Occ. Service,
R/o.Plot No.113, Adarsh CHS,
Kodoli, Satara.
5. Shri.Amarsinh Balaso Phadtare
Age: 29 years, Occ. Agriculturist,
R/o.At and Post Jihe, Tal and Dist. Satara. ... Petitioners

Versus

1. The State of Maharashtra
2. Shri.Prakash Vitthal Jadhav
Age:Adult, Occ.Business
R/o 523, Gajanan Niwas,
Karanje Peth, Satara. ... Respondents

Mr.Sanjeev P. Kadam Senior Adv. a/w Mr.Prashant P.Raul, Mr.Suraj Mhatugade and Mr.Pratik Deshmukh for the Petitioners.

Ms.Anamika Malhotra, APP for the State.

Mr. Avinash B. Avhad a/w Mr.Mahesh Rawool and Mr. Sahil Ghute for the Respondent No.2.

Mr.Dhanaji Devkar, PSI, present.

**CORAM : BHARATI DANGRE &
SHYAM C. CHANDAK, JJ.**

**RESERVED ON : 27th FEBRUARY 2025
PRONOUNCED ON : 12th MARCH 2025**

JUDGMENT : [PER : SHYAM C. CHANDAK, J.]

. Present petition under Article 226 of the Constitution of India and under section 482 of the code of criminal procedure, 1973 seeking quashing and setting aside of a chargesheet and proceedings arising out of Crime No.601 of 2017, registered with Satara City police station for the alleged offences punishable under sections 120b,420,468,471,and 34 of I.P.C. against the petitioners and others.

2) Rule. Rule made returnable forthwith. Heard Mr. Kadam, the learned Senior counsel for the petitioners, Ms. Malhotra, the learned APP for the Respondent No.1 state and Mr. Avhad, the learned counsel for Respondent No.2. Perused the record.

3) Facts in brief are that, on dated 26.07.2017 Respondent No.2 filed a report with Satara City Police Station therein he narrated as under :-

3.1) That, the Respondent No.1 was given certain *Nalaabaandh* work on contract basis for village *Jihe*, under a resolution dated 18.02.2015 recorded by the “*Paanlot Samittee*”, for village *Jihe*. The Respondent No.2 executed the work between 19.02.2015 to 25.03.2015 and submitted the said work bill for Rs.18,76,992/-. Then Respondent No.2 contacted with Petitioner No.1, who was a Taluka Agriculture Officer. However, as alleged, Petitioner No.1 demanded him 60% of the bill amount. When Respondent No.2 refused to give that money, Petitioner No.1 claimed that said contract work was done by co-accused Ashok Kondiram Nalavade. As alleged, thereafter said bill amount was withdrawn in the name of Ashok Nalavade. It is stated that then Respondent No.2 telephonically inquired with Petitioner No.4, and as alleged, she told that the said bill amount was withdrawn by changing the name of Respondent No.2 with the name of co-accused Ashok Nalavade, in the work order etc. Additionally, Petitioner No.4 is alleged to have stated that, if Respondent No.2 pays the 60% amount to Petitioner No.1, then the 40% amount will be paid to him.

3.2) This constrained the Respondent No.2 to obtain an information under the RTI Act of 2005, which confirmed that the original resolution was tampered by changing the date 18.02.2015 in

original to 10.02.2015 and, also by substituting the name of Respondent No.2 with that of Ashok Nalavade. It is stated that, thereafter the entire bill amount was credited in the bank account of Ashok Nalavade and later on, said amount was transferred in the bank account of co-accused Shekhar Yanku Chavan, who is a relative of Ashok Nalavade.

Accordingly, police registered the impugned FIR No. 601 of 2017 against the Petitioners and others.

3.3) During investigation police recorded the statement of witnesses and seized the relevant documents. Investigation revealed that the Petitioners and the co-accused committed fraud by fabricating the allotment letter, the proceedings book and related documents. It is also revealed that, Mahesh Nalavade, Taluka Agriculture Assistant at *Mahabaleshwar* is son of Ashok Nalavade; said Mahesh Nalavade consented to withdraw the bill amount by using the forged documents, through the bank account of Ashok Nalavade, thus, he is also involved in the subject crime.

On completion of investigation, the police submitted chargesheet against the Petitioners and other accused persons. Hence, Petition.

4) Mr. Kadam, the learned Senior counsel for the Petitioners

submitted that a “*Paanlot Scheme*” is run under ‘Integrated Watershade Management Programme’, with an object to construct *Baandh*, dams etc. A Committee is constituted to execute such works on contract basis and a committee was constituted for the village *Jihe*. Mr. Kadam submitted that, in this case Ashok Nalavade had sought allotment of the contract of the subject work, at village *Jihe*. Accordingly, his application was considered and approved by the Committee.

Then the Committee passed a resolution dated 10.02.2015, allotting him the desired work and recorded the minutes of the meeting in the proceedings book, accordingly. The contract was thereafter executed between the Committee and Ashok Nalavade and, he was appointed to carry out the work at three places. On completion of the work allotted to Ashok Nalavade by the last week of February 2015, the Committee by its resolution dated 25.03.2015 approved payment under the bill to the tune of Rs.18,76,992/-, after evaluating the work executed. Thereafter the amount was paid through bank transactions. Therefore, according to Mr. Kadam, everything was done as per the prescribed scheme and procedure.

4.1) Mr.Kadam submitted that in November 2015, Respondent No.2 made a complaint to different authorities of the

Government, alleging that his bill for the above referred work was not cleared by the Committee. Said complaint was inquired into by the Sub-Divisional Agricultural Officer and a report thereof was submitted on 18.01.2016.

Mr.Kadam submitted that the Respondent No.2 sought copies of the relevant record of the contract work given to Ashok nalavade, under the RTI Act. Such record was then manipulated and fabricated to show that Respondent No.2 was given the said contract work for village *Jihe*, by the Committee. However, the entries in the proceedings book of the Committee confirmed that said work was given to Ashok Nalavade and, he only completed that work. Accordingly, the Inquiry Officer submitted his report, that there is no substance in the complaint made by Respondent No.2. Mr. Kadam, submitted that thereafter Respondent No.2 filed a report with Satara Taluka Police Station. Said police checked the proceedings book and found that, the contract was given to Ashok Nalavade, not to Respondent No.2. Accordingly, police submitted a closure report with higher authority on 06.07.2017.

Mr.Kadam submitted that, on 03.07.2017, Petitioner No.4 filed a complaint/application under Section 156 (3) of Cr.P.C., against Respondent No.2, before the Judicial Magistrate First Class, Satara,

who directed the investigation, by Order dated 07.07.2017. Accordingly, Satara Taluka Police Station registered a crime. He submitted that immediately on the next date, Respondent No.2 approached Satara City Police Station, with the same set of allegations and, filed a report. As a result, police registered the impugned FIR and investigated into the crime.

4.2) Mr. Kadam submitted that, the investigation officer ignored the evidence collected by the Inquiry Officer, which exonerated the Petitioners and accordingly, submitted the closure report. Hence, the impugned FIR and entire proceedings arising out of the said FIR is prayed to be quashed.

5) As against this Ms. Malhotra, the learned APP vehemently submitted that there is sufficient material against the Petitioners which clearly show that the Petitioners and the co-accused fabricated the official record, and then, committed the offence of cheating.

5.1) Mr. Avhad the learned counsel for the Respondent No.2 supported the submission made by the learned APP.

6) In view of the rival submission, we have carefully perused the record. The record reveal that during investigation police collected various registers including the register containing the minutes of the meeting of the Committee concerned, under which the

subject work was given on contract in February 2015. Police also collected relevant correspondence and recorded statements of the witnesses.

7) On careful consideration of the said material it revealed that, initially, by way of the resolution dated 18.02.2015 the Committee had resolved to give the subject work to Respondent No.2. Thereafter, when the dispute was started about payment of the bill amount, the said resolution was tampered with two ways; the date of resolution was changed from 18.02.2015 to 10.02.2015 and secondly, the name of Respondent No.2 was replaced with name of Ashok Nalavade. Based on this the amount under the bill was credited in the bank account of Ashok Nalavade.

This fact is confirmed from the statement of the witness Vijaya Phadtare, the President of the Committee at the relevant time and, the statements of the other witnesses.

Vijaya Phadtare has clearly stated that, the Petitioner No.4 took her signature on a blank cheque, and then, the subject payment was made. The typed recommendation letter dated 17.03.2015 given to Ashok Nalavade was also tampered by changing the name of the allotted village, by village '*Jihe*'. Surprisingly, this letter is subsequent to the alleged resolution, thereby giving the

disputed contract work to Ashok Nalavade. As stated in the Inquiry Report, the Respondent No.2 had given his machine to Ashok Nalavade to carry out some contract work. But said fact was recorded on the basis of the statement of Shekhar Yanku Chavan, who is accused in the crime. Shekhar Yanku Chavan attended the inquiry on the say of the Secretary of the said Committee. Moreover, the reason of giving the machine to Ashok Nalavade is not forthcoming from the record. The Petitioners have not explained the aforesaid irregularities, in particular, which give rise to a suspicion, which is supported prima facie.

In view of the aforesaid material, the police submitted the chargesheet against Petitioners. On the basis of the very same material, which had exonerated the Petitioners on enquiry, the material in the chargesheet prima facie establish their involvement.

8) In view of the above discussion, we conclude that there is a case against the Petitioners of having committed the alleged offences and, at this stage, this Court cannot hold a mini trial to decide whether the narration of the prosecution should be accepted or the version of the Petitioners should be preferred over it, as looking at the material compiled in the chargesheet such an exercise is not permissible.

9) Conspectus of the above discussion is that, there is no substance in the Petition. As a result, the Petition is liable to be dismissed and is dismissed, accordingly.

[SHYAM C. CHANDAK,J.]

[BHARATI DANGRE,J.]