



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO.49/2017

Rajesh Chaganlal Rai

Vs.

The State of Maharashtra and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri Amol S. Mardikar, Advocate for applicant
Ms S.S. Jachak, Addl. PP for respondent No.1/State
Shri PP Deshmukh, Advocate for respondent No.2

CORAM : SHRI ANIL S. KILOR AND
SHRI PRAVIN S. PATIL, JJ.

DATE : 11.06.2025

1. The present application is filed for quashing and setting aside the First Information Report No.29/2017 registered at Police Station Ner Parsopant, District Yavatmal, for the offences punishable under Sections 52 and 54 of the Maharashtra Regional and Town Planning Act, 1966. (hereinafter referred to as "the Act of 1966").

2. It is the case of the prosecution that the applicant encroached upon the Government land and made illegal unauthorized construction over it and despite various orders, making it clear to the applicant that the request of the applicant to regularize the possession and construction over the land in question cannot be regularized, he continued with such illegality and accordingly in view of the

provisions of Sections 52, 53 and 54 of the Act of 1966, the offence came to be registered against the applicant.

3. Shri A.S. Mardikar, learned Counsel for applicant submits that there was a Sanad in the name of applicant that shows that the land was allotted to the applicant. He therefore, submits that no offence will attract against the applicant.

4. He further submits that since the unauthorized construction in question has already been demolished, the matter has become infructuous. He further submits that the matter as regards regularization and allotment of land in his favour is subjudice since his application for the same is not yet decided.

5. On the other hand, the learned APP for the State strongly opposed the application and submits that after the Sanad on which the applicant is placing reliance was set aside by Sub-Divisional Officer and the said order was upheld by the Single Bench of this Court vide judgment dated 11.09.2003 in Writ Petition No.115/1990.

6. The order of Single Bench of this Court shows that the petitioner was granted liberty to make application, to the appropriate authorities as regards the possession of the land and construction thereon.

7. From the various orders placed on record, passed by the authorities, it is evident that the authorities time and

again informed to the applicant that since his construction comes within the building line, as per the Building Bylaws the same cannot be regularized or the land cannot be allotted to him. These communication are spanning for a period 2016 onward, whereas, the complaint came to be lodged on 16.01.2017.

8. Thus, it appears that despite setting aside the Sanad, which was issued in favour of applicant and thereafter his application was rejected by the authorities and informed about his illegal structure and possession he continued with the same which resulted into lodging of the First Information Report. In the circumstance since *prima facie* the offence constitutes as alleged, we are not inclined to entertain the present application, accordingly it is **rejected**.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)