



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

CRIMINAL APPLICATION [APL] NO.195 OF 2025

[Sarita @ Sarika Narayan Tembhare .vs. The State of Maharashtra and one]

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

Court's or Judge's orders

Shri N.S. Khandewale, Advocate for Applicant.
Shri Nikhil Joshi, APP for Non-Applicant No.1/State.
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**CORAM : ANIL S. KILOR AND
PRAVIN S. PATIL, JJ.**

DATE : APRIL 05, 2025.

P.C.

1. Heard the learned counsel for the parties.
2. The applicant is a practicing lawyer by profession. She has been made as an accused in Crime No.1114/2024, dated 22.11.2024 registered with Police Station Ram Nagar, Chandrapur, Tahsil & District-Chandrapur for the offences punishable under Sections 318 (4), 338, 336 (3), 340 (2), 236 and 3 (5) of the Bharatiya Nagarik Suraksha Sanhita, 2023.
3. The prosecution case is that, the non-applicant no.2, who is working in the Court of learned Chief Judicial Magistrate, Chandrapur, lodged the report with the Police Station, Ram Nagar, Chandrapur, alleging that on 14.10.2024 at 3.00 to 3.30 pm, the applicant submitted certain documents for furnishing bail for his client/accused Lavkush Umesh Nishad in Crime No.716/2024, under Section 303 (2) of the BNS. It is alleged

that the applicant furnished tax receipt of House No.80, Gram Panchayat Devala Khurd, Panchayat Samiti Pombhurna of the surety namely Ramesh Rajkumar Lonare. It is alleged that on verification of the said documents, it was found that in the Gram Panchayat record, instead of name of surety Ramesh Rajkumar Lonare, the name of his father Rajkumar Maroti Lonare is recorded. Thereafter, the Gram Panchayat clarified that alleged tax receipt submitted by the surety was not issued by the Gram Panchayat Devada. Therefore, it is alleged that the applicant in connivance with the surety forged the said document and dishonestly submitted the same as a genuine document before the learned Chief Judicial Magistrate and thereby misled the Court.

4. From the above referred allegations made in the First Information Report, it is evident that except the allegation that the applicant in connivance with the co-accused, who was the surety in the said proceeding committed the alleged offence, there are no other allegations. It is not the case of the prosecution that the applicant has fabricated the said document or she is the manufacturer of the said document or she helped the co-accused in the act of fabrication or preparing such fake document.

5. The Advocate has certain duties to the courts, to the client, to the opponent and to the colleagues as enumerated in the Bar Council of India Rules. Advocates are generally perceived to be their client's agents and owe fiduciary duties to their clients. Advocates are fastened with all the traditional duties that agents owe to their principals. For example, advocates have to respect the client's autonomy to make decisions at a minimum, as to the

objectives of the representation. The Advocate represents the client before the court and conducts proceedings on behalf of the client. He is the only link between the court and the client. He is expected to follow the instructions of his client rather than substitute his judgment. A considerable amount of direct control is exercised by the client over the manner in which an advocate renders his services during the course of his employment. The services hired or availed of an advocate would be that of a contract “of personal service”.

6. If the allegations are looked into in the present matter, it is evident that it is not the case of the prosecution that the applicant prepared such a fake certificate or he is involved in such act with the surety who produced the said certificate. Thus, considering the role of Advocate in such matters, particularly towards the court and his client, we are of the opinion that in the present matter whatever documents the client had given to her to submit in the court, the applicant submitted the same as per the instructions of her client.

7. In that view of the matter, we are of the opinion that even if the allegations are take on its face value, no offence constitutes as alleged and hence we are of the considered view that the First Information Report in question needs to be quashed and set aside to the extent of applicant. Accordingly, we pass the following order :

ORDER

- (i) The application is allowed.

(ii) First Information Report/Crime No.1114/2024 registered with Police Station Ram Nagar, Chandrapur, Tahsil & District-Chandrapur for the offences punishable under Sections 318 (4), 338, 336 (3), 340 (2), 236 and 3 (5) of the Bharatiya Nagarik Suraksha Sanhita, 2023, is hereby quashed and set aside.

8. Application stands disposed of accordingly.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)