



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

CRIMINAL APPLICATION (APL) NO.857/2019

Dr. Satish Dattatraya Utangale and anr. .Vs. State of Maharashtra thr. PSO P. s. Civil
Lines, Akola

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

Court's or Judge's orders

Mr. S. S. Veditel, Advocate for applicants.
Ms S. N. Thakur, A.P.P. for non applicant-State.

CORAM : ANIL L. PANSARE AND M. M. NERLIKAR, JJ.

DATE : AUGUST 21, 2025

Heard.

2. The applicants, who run a school, have approached this Court, seeking to quash First Information Report registered vide Crime No.341/2018 as also the charge-sheet filed thereafter vide charge-sheet No.581/2022, for the offence punishable under Sections 409, 420, 467, 471 read with Section 34 of the Indian Penal Code, 1860. The prime allegation against the applicants is that they have shown admissions of the students for the academic year 2011-12, who were not in existence. The school run by the applicants is a primary school, admitted to Government aid to the extent of 20%.

3. In context with the aforesaid allegations, learned A.P.P. was called upon to take instructions as to the basis on which such inference is drawn. As such, the basis should find place in the charge-sheet itself, however, since we could not lay our hands to the evidence, we requested the learned A.P.P. to take instructions.

4. In response, learned A.P.P. submits that statements of teachers were recorded. One such statement is at page No.109. The teacher/witness stated that in the year 2011-12, 40 students were admitted to the school. Till 04.10.2011 all the students attended the

school. However, thereafter only 13 out of 40 students attended and remaining 27 did not.

5. According to the learned A.P.P., this statement is an evidence to indicate that 27 students were not in existence and the applicants have forged the documents to mark their presence in the school.

6. We do not find any substance in the argument, inasmuch as, if the statement of this witness is to be accepted, what is stated is that 40 students were admitted and all of them attended the school till 04.10.2011. If 40 students have attended the school for some time, one cannot jump to the conclusion that 27 out of 40 were made up students because they did not attend the school after 04.10.2011. Law of evidence will call for acceptance of the entire statement. In other words, one cannot ignore first part of the statement and emphasis on the later part to contend that, because 27 students remained absent after 04.10.2011, they were never admitted to the school. The statement, otherwise, clearly indicates that 40 students were admitted and had attended school till 04.10.2011. Such a statement of teachers will, therefore, be of no help to attract ingredients of Sections 409, 420, 467, 471 of the IPC.

7. Another evidence is a statement of the Councillor. In fact, the Councillor has replied to the letter issued by the investigating officer calling upon her to verify whether the students named in the list are residents of village Umari. This letter was issued by the investigating officer on 18.01.2020. The Councillor replied vide letter dated 31.01.2020, stating therein that the students mentioned in list are not residing in village Umari.

8. Learned A.P.P. submits that since the students were not residing in the aforesaid village and since the applicant had given address of the students as residents of Umari, the statement of

Councillor would clearly make out a case of forgery against the applicants.

9. In our view, the learned A.P.P. missed a very vital fact. The investigating officer has written letter in January, 2020. The letter does not indicate that he has requested for status of the residence of the students for the year 2012. The status of current year was sought and accordingly the Councilor had responded saying that the students enlisted are not residing at village Umari. As stated earlier, the response letter is dated 31.01.2020. Thus, what transpires is that the Councillor has informed the investigating officer of the status of January, 2020. Whereas, the relevant date was for the period 2011-2012. Such correspondence, therefore, cannot be taken aid of to establish the ingredients of aforesaid provisions of the IPC.

10. We are, in fact, surprised to see that the investigating officer has also invoked Section 409 of the IPC. We have accordingly called upon the learned A.P.P. to point out any evidence, to which she fairly submits that she could not lay hands on any such evidence.

11. That being so, since the statement of witnesses and the contents of the charge-sheet even if taken at its face value, does not constitute offences under Sections 409, 420, 467, 471 read with Section 34 of the IPC, continuation of the prosecution against the applicants will be nothing but abuse of process of law. It is, therefore, a fit case where inherent jurisdiction should be invoked. Accordingly we allow the application in terms of prayer clauses (i) and (i-a), which read thus:

“(i) Quash and set aside F.I.R. No.341/2018 dated 07.08.2018 at (Annexure A-5) under Section 409, 420, 467 and 471 of the Indian Penal Code, Police Station Akola filed by non applicant on the complaint of Education Officer, Akola.

(i-a) Be pleased to quash and set-aside the Chargesheet No.581/2022 dated 9.11.2022 filed in FIR No.341/2018 under Section 409, 420, 467, 471 and 34 of Indian Penal Code by the non applicant No.1 against the applicant at Annexure A-9.”

The application is disposed of.

(M. M. Nerlikar, J.)

(Anil L. Pansare, J.)

Kahale