



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

CRIMINAL APPLICATION (APL) NO. 1236/2024

(Gopika Ishwar Mankar Vs. Central Bureau of Investigation, Anti-Corruption Bureau, Nagpur;l[])

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

Court's or Judge's orders

Mr. S.V. Bhutada, Advocate for applicant.

Mr. P.K. Sathianathan, Advocate with Ms. N. Nandini Singh,
Advocate for non-applicant.

CORAM: NITIN B. SURYAWANSHI AND
PRAVIN S. PATIL, JJ.

DATED : 11/03/2025

Heard.

2. By this application, filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), the applicant challenges charge-sheet No. 32/2021 dated 27.12.2021 and the proceedings bearing Special Case No. 58/2021 pending on the file of learned Additional Sessions Judge, Warora, Dist. Chandrapur.

3. The applicant is prosecuted for commission of offence under Section 7 of the Prevention of Corruption Act, 1988. The prosecution case in short is that written complaint was filed on 04.09.2021 by Khomeshwar Vinayak Farakade, proprietor M/s Cyber Space, Bhadrawati, District Chandrapur against applicant who is Sub-Inspector in Railway Protection Force ("RPF"), Warora alleging that the complainant owns one Cyber Cafe in the name of

M/s. Cyber Space, Shiv Nagar, Bijashan Road, Bhadrawati, District Chandrapur. On 30.08.2021, Smt. Gopika Mankar, Police Sub-Inspector, RPF, Warora Railway Station, Chandrapur along with other officials of RPF visited complainant's Cyber Cafe and took away computer, a mobile phone and a Dongle of Airtel. The complainant was also taken to RPF office, Chandrapur and was kept there till early morning of 31.08.2021. During the said period, applicant forcefully took Rs. 35,000/- from complainant to let him go. Out of this amount, father of complainant brought Rs.25,000/- cash from home and remaining amount of Rs.10,000/- was arranged by withdrawing it from ATM of Bank of Maharashtra, Chandrapur on 31.08.2021 at 0339 Hrs. by father of the complainant from his account No.34271608325 maintained with State Bank of India, Ordnance Factory Branch, Bhadrawait, Chandrapur. After taking bribe of Rs.35,000/-, applicant allowed the complainant to go in the morning of 31.08.2021 at 0500 Hrs. after obtaining Jamanathnama by Shri Tukaram, resident of Chandrapur and Muchalkanama executed by complainant. Surety amount to be furnished by complainant is not mentioned. On 02.09.2021, complainant received a call from applicant from her mobile No. 9503012724 directing him to visit RPF Office, Warora with his firm's bank account statement. Accordingly, the complainant visited the RPF Office, Warora and gave his firm's bank account statement. During this meeting, the applicant demanded a bribe of Rs. 1,00,000/-to settle the case against

him. Since the complainant did not want to give bribe, he approached the CBI, ACB, Nagpur.

4. During verification, the applicant agreed to accept Rs.60,000/-. The applicant directed the complainant to call her in the evening of 05.09.2021 to fix date payment of bribe amount. This conversation is recorded in Digital Voice Recorder. In the evening of 05.09.2021, the complainant called applicant. She told him that she would call him later to decide the date and time to give bribe amount. The prosecution, therefore, claims that acts of applicant disclose commission of offence punishable under Section 7 of the Prevention of Corruption Act, 1988 (As amended in the year 2018). Sanction is granted to prosecute the applicant by DIG-cum-CSC / RPF, Central Railway, Mumbai-CSMT on 22.12.2021. On completion of investigation, charge-sheet is filed on 27.12.2021.

5. The applicant has challenged the charge-sheet and the proceedings of Special Case No. 58/2021 pending on the file of learned Additional Sessions Judge, Warora, District Chandrapur on the ground that sanction granted to prosecute the applicant by DIG-cum-CSC / RPF, Central Railway, Mumbai-CSMT is not valid. Applicant contents that she was promoted as Sub-Inspector on 21.11.2017 under the orders of the then Chief Security Commissioner ("CSC"), Central Railway. Thereafter, the recruitment Rules were amended in the year 2018 and the Appointing and Removing Authority of Sub-Inspector as per amended

Rules is redesignated as Principal Chief Security Commissioner (“PCSC”). According to the applicant, in terms of Article 311, the applicant is entitled for protection and hence the sanction accorded by CSC is not valid and sanction was required to be given by PCSC and not by the CSC. On this count alone, the proceedings against the applicant are liable to be quashed and set aside.

6. Learned counsel for non-applicant by relying on reply of non-applicant No.2 and the Schedules II and III placed on record at Annexure NA-2 and Annexure NA-3 submits that as per Schedule-II, the Appointing Authority of all the enrolled members of the Force below the rank of Inspector is Chief Security Commissioner / Deputy Chief Security Commissioner / Principal, RPF, Academy and as per Scheduled III, Chief Security Commissioner / Deputy Chief Security Commissioner / Principal RPF Academy has power to dismiss all the enrolled members of the force below the rank of Inspector. Therefore, sanction granted by CSC to prosecute the applicant is valid and there is no merit in the submission of the applicant.

7. Applicant is inducted in the Railway Protection Force (“RPF”) in the year 1998 as a Constable. On 21.11.2017, applicant was promoted as Sub-Inspector by the order of CSC. It is not in dispute that the recruitment Rules are amended in the year 2018 and the Appointing Authority of Sub-Inspector, according to applicant is redesignated as PCSC.

8. Schedule-II under Rule 25 (Annexure NA-2) provides for administrative powers of Superior Officers. Perusal of Schedule-II shows that Chief Security Commissioner / Deputy Chief Security Commissioner / Principal, RPF Academy are the appointing Authority of all enrolled members of the force below the rank of Inspector. Under Schedule-III, Disciplinary Authority and their powers are enumerated under Rules 25 and 133. Item No. 2 is in respect of dismissal and Chief Security Commissioner / Deputy Chief Security Commissioner / Principal, RPF Academy are empowered to dismiss all enrolled members of the force below the rank of Inspector. In this view of the matter, we do not find any force in the submission of the applicant that sanction to prosecute her should have been accorded by PCSC and not by CSC. We are of the considered view that sanction to prosecute the applicant is accorded by the Competent Authority. The application being devoid of merits, is dismissed.

(PRAVIN S. PATIL, J.)

(NITIN B. SURYAWANSHI, J.)