



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

CRIMINAL WRIT PETITION (WP) NO. 358 OF 2024

Chandrashekhar S/o Purushotamrao
Dhude,
Aged about 52 years, Occ: Service
R/o Plot No. 55/96, Urvashi Nagar,
Katora Road, Amravati – 444604,

...PETITIONER

// V E R S U S //

The State of Maharashtra,
through Police Station Sawangi
Meghe, Wardha, District Wardha

... RESPONDENT

Mr A. P. Chaware, Advocate for the petitioner
Mr N. R. Rode, APP for the respondent/State.

CORAM : ANIL S. KILOR, J.
DATED : MARCH 04, 2025.

ORAL JUDGMENT :

1 Heard.

2 **Rule.** Rule made returnable forthwith. Taken up for
final disposal with the consent of learned counsel appearing for the
parties.

3 The petitioner, in the present petition, is the accused
No.3, who was working as ‘Talathi’ at the relevant time. The FIR
No. 13195 of 2017 dated 28.09.2017 registered with police station
Sawangi Meghe, District Wardha, alleges that the petitioner carried
out a mutation entry in relation to the land in dispute on the basis
of the fabricated document. Accordingly, the crime was registered
for the offences punishable under Sections 420, 468, 471 read with
Section 34 of the Indian Penal Code (for short ‘the IPC’).

4 After the investigation was over, the charge-sheet was
filed on 29.06.2019.

5 Thereupon, the petitioner applied for discharge before
the learned Judicial Magistrate First Class, Wardha in RCC No. 448
of 2019.

6 The learned Magistrate vide order dated 24.04.2023
rejected the application of the petitioner, which was the subject
matter of Criminal Revision Application No. 24 of 2023 before the
learned Sessions Judge at Wardha. The learned Sessions Judge vide

judgment and order dated 29.12.2023 maintained the order of the Magistrate. Hence, this petition.

7 Learned counsel for the petitioner submits that despite the fact that there is nothing against the applicant to show that he is involved in the alleged offence, the trial Court denied the prayer for discharge. It is submitted that the allegations against the petitioner do not attract any offence more particularly the offences for which the present crime was registered. He submits that he did his official duty as talathi by carrying out mutation entry as per the order of the Tahsildar/accused No. 4.

8 On the other hand, learned APP submits that since the offence is registered under Section 34 of the IPC and as it is alleged that all the accused in collusion committed the offence, the learned Magistrate as well as the learned Revisional Court rightly held against the petitioner.

9 In the above referred backdrop, I have perused the record, submissions and the impugned order.

10 From the record it is evident that the allegations against the accused are that the accused Nos. 1 and 2 in collusion with accused No. 6 got prepared back dated and bogus non agriculture order dated 23.03.1989 in relation with the land in question i.e. land bearing old survey No. 34, New survey No.26, area 2.01 H. R. at Mouza Alodi originally owned by Atmaram Sitaram Tidke, through Naib Tahsildar/accused No. 4. As far as the petitioner is concerned, it is alleged that the petitioner took out mutation about the said non agriculture order on 12.08.2008 after 19 years.

11 From the above referred case of the prosecution, it can be seen that the only allegation against the applicant is that he carried out the mutation entry as per the orders of the Naib Tahsildar/accused No. 4.

12 Admittedly, the petitioner was working as Talathi and he was subordinate to accused No. 4. The order of the accused No. 4 is on record, who directed the petitioner to carry out the

mutation. The petitioner accordingly carried out the mutation in compliance of the order of Naib Tahsildar/ accused No.4 and while carrying out such mutation entry he specifically observed that such entry was being taken and recorded as per the order of Naib Tahsildar.

13 Thus, it is evident that the petitioner was acting in his official capacity as Talathi. He followed the directions of his superior issued to him through order. Therefore, the act of the petitioner carrying out the mutation entry was nothing but the compliance of the order of the Naib Tahsildar.

14 As far as collusion is concerned, there is no material available in the charge-sheet to hold against the petitioner. In the circumstances, I am of the opinion that the learned Magistrate as well as the learned revisional Court committed error in rejecting the application of the petitioner for discharge.

15 In the circumstances, in absence of any *prima facie* evidence against the petitioner as regards his involvement in the

alleged offence, the petition needs to be allowed. Accordingly, I pass the following order-

- i] The writ petition is allowed.
- ii] The order dated 24.04.2023 passed by the learned Judicial Magistrate First Class, Wardha and order dated 29.12.2023 passed by the learned Sessions Judge, Wardha are hereby set aside.
- iii] The application moved by the petitioner for discharge is allowed.

16 Rule made absolute in the above terms.

17 The criminal writ petition stands **disposed of**, accordingly.

(ANIL S. KILOR, J.)

Namrata