



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

CRIMINAL APPLICATION (APL) NO. 831 OF 2024

1. **Rahul Raju Nawande,**
Aged 30 Yrs., Occ.: Business,
R/o. Chaprasi Pura, Camp
Amravati, Ta. & Dist.
Amravati

APPLICANT

// VERSUS //

1. **State of Maharashtra,**
Through Police Station Officer,
Nandgaon Peth,
Amravati
2. **Mayur s/o Ravindra Badgujar,**
Age 33 years, Occu.: Manager
R/o- Jhanda Chowk, Raja Peth
Amravati

NON-APPLICANTS

Mr. A.S. Mardikar, Sr. Advocate assisted by Mr. Digvijay Singh, Advocate for the
applicant.
Ms Shamsi Haider, APP for non-applicant No. 1/State.

CORAM : URMILA JOSHI PHALKE, J. AND
NANDESH S. DESHPANDE, JJ.

JUDGMENT RESERVED ON : 30.09.2025
JUDGMENT PRONOUNCED ON :- 09.10.2025

J U D G M E N T : (PER : NANDESH S. DESHPANDE, J.)

1. Heard.
2. **Admit.** Heard finally with the consent of learned
counsel for the parties.

3. This is an application seeking quashing and setting aside of First Information Report bearing No.63/2024 dated 21.02.2024 registered with Police Station Nandgaon Peth District Amravati for the offences punishable under Section 7 of The Maharashtra Prevention of Malpractices at University, Board and other Specified Examinations Act, 1982 (for short, ' Maharashtra Act No.XXXI of 1982') and Section 66(D) of Information Technology Act, 2000 (for short 'the I. T. Act') read with Sections 417, 420, 468, 471, 201 and 120 of the Indian Penal Code (for short, 'I.P.C.'). The applicant further press for setting aside charge-sheet/ final report bearing No.56/2024 dated 25.06.2024 filed by non-applicant No.1 before learned Judicial Magistrate First Class, Amravati in Regular Criminal Case No.926/2024.

4. As per the said First Information Report on 21.02.2024, in between 9.00 a.m. and 11 a.m., examination for the post of Soil and Water Conservation Department, Group B, Non-gazetted Officers was conducted.

5. The applicant is the proprietor of ARN Associate and provides infrastructure for conducting the said examination which includes the space for conducting the said examination. It is noteworthy to mention that said examination was conducted by Maharashtra Public Service Commission (M.P.S.C.) through Tata Consultancy Services at ARN Associate, Dreamland Nandgaon Peth Amravati. The present applicant is the owner of ARN Associate.

7. During the said examination one of the accused namely Yash Anant Kaware was found with xerox copy of admission card having 40 answers of non-technical and 60 answers of technical questions thereby making total 100 answers written on the said examination form in the form of A, B, C and D. Accordingly, the said person was detained by the invigilators and later on was arrested for offence punishable under Section 7 of the Maharashtra Act No.XXXI of 1982.

8. It is further transpired during the investigation that the accused namely Yash Anant Kaware, Kishor Dongare, Rahul Linghot and others were arrested and were sent into police custody and subsequently, they were released on bail. On the basis of these allegations, the FIR was lodged as stated above and accused was arrayed therein. It is this FIR which is challenged in the present application.

9. We have heard Mr. A.S. Mardikar, learned Senior Advocate along with Mr. D. Singh, counsel for the applicant and Ms Shamsi Haider learned APP for the State.

10. Mr. A.S. Mardikar, learned Senior Advocate has taken us through the provisions of Maharashtra Act No.XXXI of 1982 and more particularly Section 7 thereof which is a penal provision. He submits that the only role attributed to the present applicant is providing of infrastructure for the said examination and he is no way concerned with the malpractices/copying which happened allegedly during the said examination. He further submits that even

the investigation carried out by the prosecution and the statements recorded therein do not show any act on the part of the present applicant which would attract the offences mentioned in the FIR and charge-sheet. He therefore, submits that no offence is made out and therefore, the continuance of prosecution against the applicant is nothing but an abuse of process of Court. He therefore, submits that FIR and consequent charge-sheet is liable to be quashed.

11. On the other hand Ms Shamsi Haider, learned APP opposed the contentions raised by the learned Senior Advocate. She states that investigating officer has recorded the statement of witnesses during which name of other 13 accused persons were revealed. She further states that the investigation agency has also collected CDR and SDR of the mobile of the accused persons which show that the present applicant has used duplicate sim card and he was in constant touch with the co-accused. Thus, learned APP states that prima-facie case is made out against the accused and she prays for dismissal of the present application.

12. In the light of these materials we have perused the FIR and charge-sheet filed on record.

13. Before proceeding with the present matter it would be relevant to advert to the relevant provision under Section 7 of Maharashtra Act No.XXXI of 1982. The said act was brought into force for curbing the malpractices at University Board and at other specific examinations. Section 7 is the penal provision which reads as under:-

“Whoever is found in or near an examination hall by the invigilator or any other person appointed to supervise the conduct of the examination, copying answers to the question paper set at the examination, from any book, notes or answer papers of other candidates, or appearing at the examination for any other candidate or using any other unfair means, shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both”.

14. Meaningful reading of the said provision would reveal that whoever is found in or near examination hall by the invigilator or any other person who is appointed to supervise conduct of the

examination copying answers to the question paper set from any book, notes or answer papers of the other candidates, or appearing at the examination for any other candidate or using any unfair means shall on conviction, be punished as prescribe in that section.

15. It is, therefore, imperative that a persons should be found copying answers of the question paper from any book or answer papers of other candidates or using any other unfair means. As can be seen from the charge-sheet and the supporting material nothing of such sort has been attributed to the present applicant. The only overt act attributed to the applicant is that he made available his place for conducting the examination in question.

16. It is therefore, clear that no material has been placed on record so as to attract the offence under Section 7 of the Maharashtra Act No.XXXI of 1982 against the present applicant.

17. As far as offences punishable under Sections 417, 420, 468, 201 and 120 of the Indian Penal Code are concerned there is

not even iota of averment in the FIR and consequent charge-sheet to connect present applicant to the said offences. There is no material on record to show that the applicant cheated and dishonestly induced delivery of property. Also there is no forgery as contemplated under Section 468. As far as offence under Section 66-D of the I. T. Act is concerned nothing has been stated or no material has been placed on record to bring home the said offence as far as present applicant is concerned, since there is no cheating by personation by using computer resource as contemplated under the Section. In fact the prosecution has admitted in its affidavit that the whole premises was under the control of Tata Consultancy Services. Even the statements of witnesses recorded by the prosecution do not name the applicant.

18. It would be, therefore, an abuse of process of Court to continue the proceedings as far as present applicant is concerned. We are supported in our view by the celebrated judgment of State of Haryana Vs. Bhajanlal reported in 1992 Supp (1) SCC 335 and more particularly paragraph No.102 which read thus:

“(1) Where the allegations made in the First Information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2).....

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4)

(5).....

(6).....

(7) Where a criminal proceeding is manifested attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

19. In that view of the matter, we pass the following order:-

ORDER

- i. The criminal application is allowed.
- ii. The FIR No 63/2024 dated 21.02.2024 for the offences punishable under Section 7 of Maharashtra Act No.XXXI of 1982 and Section 66(D) of Information Technology Act, 2000 read with Section 417, 420, 468, 471, 201 and 120 of the IPC registered with Police Station Nandgaon Peth District Amravati and

charge-sheet/final report bearing No.56/2024 dated 25.06.2024 filed by non-applicant No.1 before learned Judicial Magistrate First Class, Amravati bearing RCC No.926/2024 is hereby quashed and set aside to the extent of applicant Rahul Raju Nawande.

Pending application, if any, also stands disposed of.

[NANDESH S. DESHPANDE J]

[URMILA JOSHI PHALKE, J.]