

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4343 OF 2025

Shri Bhagwan S/o Vithoba Jamdhade
Age : 68 years, Occu : Retired/Pensioner,
R/o. At post Ambegaon Rode, Tq. Jafrabad,
Tq. Jafrabad, District Jalna

..Applicant

VERSUS

1. The State of Maharashtra
Through the Police Inspector,
Tembhurni City Police Station, Tq. Jafrabad
District Jalna.

2. Shri Keshav Annarao Dakale,
Naib Tahsildar, Jafrabad, Tq. Jafrabad,
District Jalna,
Age 49 years, Occu : Service
R/o. Georai, Tq. Phulambri,
District Cha. Sambhajinagar.

..Respondents

...
Mr. Y.B. Bolkar, Advocate for Applicant
Mr. S.A. Gaikwad, APP for Respondent/State.

...
CORAM : S. G. CHAPALGAONKAR, J.

DATED : FEBRUARY 12, 2026

FINAL ORDER :-

1. The applicant impugns First Informant Report dated 15.03.2022 in Crime No.73 of 2022 registered with Tembhurni Police Station, Taluka Jafrabad, District Jalna for offences punishable under Section 406, 409, 202, 465, 468, 471 of Indian Penal Code and consequential charge sheet in R.C.C. No.116 of 2023 pending before learned Judicial Magistrate First Class, Jafrabad.

2. The investigation was set in motion on the basis of information given by Mr. Keshav Annarao Dakale, Naib Tahsildar,

Jafrabad alleging that in pursuance to complaint made to Hon'ble Lokayukt , Maharashtra State regarding encroachment on government land at Village Tembhurni, directions were issued to cause inquiry. Accordingly, learned Divisional Commissioner, Aurangabad had called inquiry report and issued directions for registration of offence against concerned revenue officers. It was revealed during inquiry that 24 revenue officers named in inquiry report have failed to discharge their official duties and protect government land from encroachment. They failed to take necessary steps to remove encroachment. Resultantly, government is put to loss. It is alleged that aforesaid officers were in-charge of respective posts from 15.03.1980 onwards, however, they defaulted in performance of their duty to prevent encroachment or remove same by taking timely steps. As such, they are guilty of offences punishable under Section 406, 409, 202, 465, 468, 471 of Indian Penal Code. The aforesaid information culminated to registration of Crime No.73 of 2022. The investigation progressed, eventually, charge sheet is filed and at present R.C.C No.116 of 2023 is pending for trial before Judicial Magistrate First Class at Jafrabad.

3. Mr. Bolkar, learned advocate appearing for applicant submits that applicant was posted as Talathi at Tembhurni during period from 2007 to 2008. He would point out that there was pre-existing encroachment of villagers on government lands in Gat No.1, 195, 269 and 806 to the extent of 5 H 81 R by 601 villagers. The

Village Panchayat took entries of house properties constructed on government land in its record. In this background applicant and other revenue officers were subjected to disciplinary inquiry alleging inaction on their part. The inquiry was completed and applicant was discharged. However, later on, aforesaid crime has been registered. He would further submit that contents of first information report or charge sheet, even taken on its face value to be true and correct, does not constitute any offence as against applicant. Mr. Bolkar would further invites attention of this Court to order dated 26.02.2025 passed in Criminal Application No.412 of 2023 and order dated 26.06.2025 in Criminal Application No.1955 of 2025 along with connected matters, wherein this Court pleased to quash proceedings in R.C.C. No.116 of 2023 against co-accused persons in Crime No.73 of 2022, who were Charge sheeted and relegated for trial in R.C.C. No.116 of 2023. Mr. Bolkar urges that allegations against applicant and co-accused persons against whom proceedings are quashed and set aside by this Court are similar in nature. Therefore, present application deserves to be allowed.

4. Per contra, Mr. Gaikwad, learned APP appearing for respondent/State opposes prayer for quashment of F.I.R.

5. Having considered submissions advanced by learned advocates appearing for respective parties, it can be observed that applicant discharged his duties as Talathi at Village Tembhurni from

2007 to 2008 i.e. period of less than two years. The encroachment on government land was continued from 1980 onwards till 2022. Many villagers erected construction of houses/sheds. In first information report or in charge sheet, nowhere stipulates as to how applicant was responsible for such encroachments and where is failure on his part to discharge his official duties. Even it is accepted that some encroachments took place during officiating period of applicant as Talathi, question is whether he can be prosecuted for offence punishable under Section 406, 409, 202, 465, 468, 471 of Indian Penal Code.

6. Section 406 deals with criminal breach of trust. There is nothing on record to show that during service period of applicant at Tembhurni, particular encroachment took place or applicant was entrusted with government property and he dishonestly misappropriated or converted that property to his own use. In this background, neither Section 406 of Indian Penal Code nor Section 409 of Indian Penal Code would attract. So far as Section 202 of Indian Penal Code is concerned, allegations in F.I.R. does not specify actual overt acts on part of applicant that would establish intentional omission to give any information of that offence by a person bound to inform. Apparently, persons who encroached on property are not made accused. It is not discernible from contents of first information report that act of encroachment is treated as an offence or applicant

has intentionally suppressed information of any such offence, which was within his knowledge. Therefore, none of offences as charged would attract against applicant. Pertinently, in Criminal Application No.412 of 2023, 1955 of 2025, 1973 of 2025, 1974 of 2025 and 1975 of 2025, this Court after appreciating contents of F.I.R. and charge sheet in same crime opined that no case can be made out against applicant/accused therein. The reasons employed by this Court while quashing proceedings are also applicable in case of applicant with equal force. In that view of matter, following order is passed :

ORDER

- (I) Criminal Application stands allowed.
- (II) The F.I.R. bearing Crime No.73 of 2022 registered with Tembhurni Police Station, Taluka Jafrabad, District Jalna as well as the proceedings in R.C.C. No.116 of 2023 pending before the learned Judicial Magistrate First Class, Jafrabad for the offences punishable under Sections 406, 409, 202, 465, 468 and 471 of Indian Penal Code, stand quashed and set aside as against present applicant.

(S.G. CHAPALGAONKAR, J.)