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

CRIMINAL APPLICATION (APL) NO.379 OF 2025

1. Govinda Prakash Rathod,
Aged about 35 Years,
Occupation : Agriculturist,
2. Sharda w/o Govinda Rathod,
Aged about 34 years,
Occupation : Household,
3. Gopal s/o Prakash Rathod,
Aged about 36 years,
Occupation : Agriculturist,
4. Archana w/o Gopal Rathod,
Aged about 35 Years,
Occupation : Household,
All R/o. Krushna, Washim,
Tahsil and District Washim.

..... APPLICANTS

// VERSUS //

1. The State of Maharashtra, Through
Police Station Officer,
Police Station Ansingh,
Tahsil and District Washim.
2. Shyamrao Metha Chavhan,
Aged about 45 Years,
Occupation : Agriculturist,
R/o. Krushna, Washim,
Tahsil and District Washim.

.... NON-APPLICANTS

Mr. Nilesh Tikar Advocate h/f Mr. Ram Karode, Advocate for
applicants.
Mr. A. M. Kadukar, APP for non-applicant No.1/State.
Mr. N. B. Kalwaghe, Advocate for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
RESERVED ON : 04.02.2026
PRONOUNCED ON : 17.02.2026

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JUDGMENT :

1. Heard.

2. **Admit.**

3. Heard finally with the consent of the learned Counsel for the applicants and learned APP for the State and learned counsel for the non-applicant No.2.

4. The FIR came to be registered against the present applicants on the basis of directions given by the learned Chief Judicial Magistrate, Washim in Criminal Case No.264/2024 filed by Shyamrao Metha Chavhan on an allegation that he is the resident of Krushna village and the applicants are also from the same village. Applicant No.1 Govinda Prakash Rathod was working as a Sarpanch of the said village, whereas the applicant No.2 was a member of the said Grampanchayat. The applicant Nos.1 and 2 have one daughter born on 03.01.2015 by name Anushka and another daughter born on 08.06.2016. The applicant Nos.1 and 2 have filed an affidavit mentioning about their both daughters. To save his position as a Sarpanch, he shown the birth date of his daughter Anushka as 03.01.2015 and another daughter Aradhya born on 18.06.2016. The applicant No.1 has two daughters Anushka Govind Rathod and Aradhya Govind Rothod @ Pratiksha and thereafter son by name Yuvraj was begotten by the applicant No.2 from the said marriage. The

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entry regarding the birth of son of the applicant Nos.1 and 2 was taken in the Grampanchayat record. The applicant No.2 is working as a Sarpanch since 2017 to 2023. She was aware that if the third child is born to them, then they can lose the position of Sarpanch and therefore, in connivance with the accused/applicant Nos.3 and 4, they have shown that daughter Aradhya is not their daughter, but she is the daughter of applicant Nos.3 and 4. In fact, the applicant Nos.3 and 4 are also having two children, but the applicant No.3 filed an application before the Court and misleading the Court, obtained the order from the Court to register the name of the applicant Nos.3 and 4, as the parents of the said Aradhya and thus, the applicant Nos.3 and 4 have adduced the false evidence before the Court and thereby committed an offence. On the basis of the said report, police have registered the crime under Sections 229, 236, 237, 318, 336 and 337 of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as 'BNS').

5. Heard learned counsel for the applicants, who submitted that respondent No.2/non-applicant No.2 had approached to the learned Judicial Magistrate First Class, Washim, and the learned Judicial Magistrate First Class, Washim on 23.09.2024 has passed an order in view of that, the crime was registered against them. The non-applicant No.2 and two others namely Samadhan Ingole and Mangilal Chavan had filed an application for the

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disqualification of the applicant No.1 before the Collector, Washim on the ground having more than three children. The learned Collector rejected the application filed by the non-applicant No.2 and others. It is concurrently hold that the applicants have not played any mischief with the authorities. There is no question of cheating, forgery, manipulating documents with intention to gain something by hiding the same. Therefore, the allegations made in the FIR clearly reveals that entirely false and vague allegations are made in order to harass the applicants by falsely implicated them in the present offences and therefore, no offence is made out against the applicants. In view of that, the application deserves to be allowed.

6. Per contra, learned APP strongly opposed the said contentions and submitted that the applicant Nos.1 and 2 already having two daughters prior to the said Grampanchayat election. That the applicant No.2 Sharda Govind Rathod has already delivered first daughter Anushka on 03.01.2015, as well as also delivered second daughter Aradhya on 18.08.2016. As such, the applicant No.1 Govind and applicant No.2 are having two daughters and one son who are born after the Grampanchayat election. Therefore, the applicant Nos.1 and 2 are not entitled to be as a Grampanchayat Members being disqualified due to the third child Ansh @ Yuvraj Govind Rathod. Therefore, the complainant has taken objection before the

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learned Tahsildar and Collector for declaring the applicant Nos.1 and 2 as disqualified. It is further submitted by him that applicant Nos.1 to 4 have prepared bogus documents to show that second daughter Pratiksha Govind Rathod is expired on 30.12.2022 by preparing false documents by submitting application for making entry regarding death of Pratiksha, wherein the applicant No.1 Govind has made an application by mentioning her daughter is died, therefore, the applicant Nos.1 and 2 filed an affidavit to make such an entry. In fact, the applicant No.1 has submitted false documents in the office of the Tahsildar and inquiry was conducted by the Tahsildar. It is further submitted that the applicant Nos.1 to 4 are making false statements that the daughter Pratiksha of applicant No.1 Govind is expired and applicant No.3 Gopal is having the daughter Aradhya Gopal Rathod. Whereas the applicant Nos.3 and 4 are not having the daughter Aradhya but on the contrary, the daughter of the applicant No.1 Govind i.e. Pratiksha is the same girl to whom all the applicants are showing that the applicant No.3 Gopal is the father of Aradhya Gopal Rathod. The birth date of Aradhya is 18.08.2016. The applicant No.3 Gopal and applicant No.4 Archana are having the son Aditya Gopal Rathod and his date of birth is 01.02.2017. Therefore, it is highly impossible that the accused Nos.3 and 4 has delivered a son within six months. As such, all the four accused persons have

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prepared false documents and submitted it is correct and genuine one before the authority to get the benefit only with an intention to save from disqualification being as members of the Grampanchayat.

7. The various statements of the witnesses also discloses that applicant Nos.1 and 2 are having two daughters and one son, whereas applicant Nos.3 and 4 are having one son and one daughter. The Investigating Officer has also seized the bogus affidavit made by the accused/applicant No.3 Gopal regarding the birth of daughter Aradhya. The bogus affidavit prepared by the accused/applicant No.1 Govind Rathod for getting the certificate about death of Pratiksha. The *bona fide* certificate of Aditya Gopal Rathod wherein his birth date is mentioned as 01.02.2017. All these aspects pointed out that it was false evidence created by the present applicants and therefore, offence is made out against them. In view of that, the application deserves to be rejected.

8. Learned counsel for the complainant/non-applicant No.2 endorsed the same contention and submitted that the report of the Tahsildar who was appointed as Enquiry Officer also shows that the applicant Nos.1 and 2 are having two daughters and one son, whereas applicant Nos.3 and 4 are having one son and one

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daughter. In view of that, the application deserves to be rejected.

9. After hearing both sides and on perusal of the entire investigation papers in the light of the allegations levelled against the present applicants. From the record, it reveals that the applicant No.1 Govind Prakash Rathod has filed an application before the Tahsildar, Washim for seeking directions to take entry regarding the date of death of his daughter Pratiksha Govind Rathod, who according to him, died on 30.12.2022. The said application was allowed and the entry regarding the date of death of daughter Pratiksha was taken. On perusal of the entire investigation papers, it reveals that the applicant No.1 has also filed an affidavit stating that his daughter namely Pratiksha Govind Rathod died on 30.12.2022 at the house of his relatives, but the entry regarding her death is not taken place. In view of the order passed by the learned Tahsildar, the said entry was taken in the register. The applicant No.3 Gopal has also filed an application before the learned Chief Judicial Magistrate stating that his daughter Aradhya was born on 18.08.2016 at village Krushna, Taluka and District Washim as he and his wife both are illiterate and they have not applied for entering the birth date in the record and therefore, the birth of Aridhya be recorded as 18.08.2016. The same application came to be allowed by the learned Judicial Magistrate First Class, Court No.3, Washim.

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Accordingly, the entry was taken in the birth register on 06.06.2025. The applicant No.1 has filed an affidavit on 11.06.2024 before the Election Officer who was nominated for Grampanchayat election, wherein in the affidavit he stated that he is having two daughters Anushka, Pratiksha and one son Yuvraj. Despite he filed an application before the Tahsildar stating that his daughter Pratiksha Govind Rathod has died on 30.12.2022 at Ansing, Taluka and District Washim. No steps are taken to enter the date of her death till 2024. The affidavit filed by the applicant No.2 dated 22.08.2018 addressed to the Child Development Officer for the post of Anganwadi Sevika, wherein she has mentioned that she has two daughters Anushka Govind Rathod and Aradhya Govind Rathod. The application was filed by applicant No.1 before the Tahsildar for taking entry regarding death of Pratiksha Govind Rathod on 16.04.2024. The learned Tahsildar has passed an order on 04.07.2024. The applicant No.3 Gopal Prakash Rathod has filed an application to take the entry of the birth date of his daughter Aradhya before the learned Judicial Magistrate First Class on 03.07.2023. The said application was allowed by the learned Judicial Magistrate First Class on 21.08.2023. The self declaration form given by the applicant No.1 dated 23.11.2022 while filling the nomination form for the post of Sarpanch shows he is having two daughters Anuksha and Pratiksha. The birth date of Anushka is 03.01.2015

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and said birth date is registered on 19.01.2015. The birth date of Aradhya is 18.08.2016 registered on 25.08.2023. The birth certificate of Pratiksha Govind Rathod shows her birth date is 18.06.2016 and registered on 20.06.2016. The family declaration while filling the application for Anganwadi Sevika by the applicant No.2 shows that she shown the names of her two daughters as Anuksha Govind Rathod, Aradhya Govind Rathod on 22.08.2018.

10. The applicant No.3 has claimed that the entry regarding birth date of Aradhya is not taken and she born on 18.08.2016. He also claimed that Aditya @ Mayur is also his son and who born on 01.02.2017 i.e. within five months, which creates doubt and the story narrated by the applicant No.3 that Aradhya as well as Aditya both are his daughter and son, but they appears to be born on 18.08.2016 and 01.02.2017 i.e. within a span of five months is improbable and unacceptable. This fact is to be further considered in the light of the fact that though Pratiksha claimed to be the daughter of the applicant Nos.1 and 2 they shown that she died at the relative's house, but for two years her entry regarding the death was neither taken in the Grampanchayat where she died nor taken where the applicants were residing. The learned Tahsildar has carried out the enquiry and recorded the statements of the various witnesses from which it reveals that the applicant Nos.1 and 2 are having three

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children, who were alive. The statement of Ujwalla Baban Bhimte who is working as Anganwadi Sevika, she specifically disclosed that the birth entry regarding Anushka was not taken in the register maintained at village as her birth taken place at Mumbai. However, the another daughter Aradhya whose entry was taken by them in a register which is to be maintained by them. She specifically stated that regarding the pregnancy of the applicant No.2 the entry was taken in the register as well as the entry regarding the birth of the second daughter namely Aradhya is also taken. Thus, Govind Prakash Rathod is having two daughters and one son whereas the applicant Nos.3 and 4 are having son namely Aditya Gopal Rathod and daughter Prajakta Gopal Rathod. Similar is the statement of Monika Kisan Rathod, who is also serving as Anganwadi Sevika, who has also stated that the applicant Nos.1 and 2 are having two daughters and one son. The statement of Aasha worker Varsha Nitin Bodkhe is on a similar line and stating that Aradhya is the daughter of applicant No.1. As far as the contention of the applicants that Pratiksha is no more and died in 2022 itself is not substantiated by any material, any statement or any documents on record. Thus, at this stage, there is sufficient material to show the involvement of the present applicants in the alleged offence. At this stage, there is sufficient material to show that applicant No.3 has given a false affidavit before the Court

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therefore, Section 229 of BNS is attracted against him. The applicant Nos.1 and 2 have given a false statement and therefore, Section 236 is also attracted. The applicant Nos.1 and 2 used the declaration as a proof though it is a false therefore, Section 237 is also attracted. By giving a false affidavit, they have deceived and a fraudulent intention is apparent from the entire transaction they entered into. Thus, *prima facie* case is made out against the present applicants.

11. In the light of parameters laid down by the Hon'ble Apex Court in the case of **State of Haryana and others Vs Bhajan Lal and others** reported in **1992 Supp. (1) SCC 335**, which reads as under:

"(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) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(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) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer

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without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly 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."

12. Thus, by applying the said principles *prima facie* case is made out against the present applicants and therefore, the application deserves to be rejected. Accordingly, I proceed to pass following order:

ORDER

The application is rejected.

(URMILA JOSHI-PHALKE, J.)