



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

CRIMINAL APPLICATION (APL) NO. 993 OF 2025

Vijay Sukhdeo Chavhan

Aged about 49 years,

Occupation : Police Constable,

P.S. Khadan, Akola

Tq. and Dist. Akola

R/o Ashray Nagar, Dabki Road,

Akola Tq. and Dist. Akola

APPLICANT

// V E R S U S //

1. **The State of Maharashtra,**
Through the Police Station Officer,
Police Station Ural, Tq. Balapur,
Dist. Akola

2. **Mohammad Riyaj Rahimodin**
Pande,
Age 36 years, Occ. Business,
R/o Aagar, Ural, Akola

NON-APPLICANTS

Mr. S.V. Sirpurkar, Advocate for the applicant.

Mr. H.D. Dubey, APP for non-applicant No.1 /State.

Ms Radha M. Mishra, Advocate for non-applicant No.2.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 16.01.2026

ORAL JUDGMENT :

1. Heard.

2. **ADMIT.** Taken up for final disposal with the consent of learned counsel for the parties.

3. The present application is preferred by the applicant for quashing of the First Information Report in connection with crime No.91/2025 registered with the non-applicant No.2-Police Station Ural Akola under Section 7 of the Prevention of Corruption Act, 1988. The crime is registered against present applicant on the basis of report lodged by the Mohd. Riyaz Rahimoddin Pande on an allegation that one Vijay Sukhdev Chavan and one police official Sanjay Kumbhar etc. have demanded the amount of Rs.20,000/- per month for running the sand transportation business. Accordingly trap was arranged and the communication was recorded. The recitals of the FIR furthers shows that said recording does not bear the voice of the present applicant. On the basis of the said report police have registered the crime. During investigation, Investigating Officer has collected the voice samples and after completion of the investigation charge-sheet is filed against the applicant.

4. Heard learned counsel for the applicant, who submitted that while releasing the applicant on bail this Court has observed that FIR is lodged after five to six years of the incident. Recitals of FIR itself shows that it does not bear the voice of the present applicant. Voice sample of the present applicant is also obtained by the Investigating Agency. The departmental inquiry was initiated against the present applicant, in which, the present applicant was exonerated as no sufficient evidence is available. He submitted that nature of the evidence required for departmental inquiry and the nature of the evidence which is required for the criminal complaint is different for proving the offence punishable under Section 7 of the Prevention of the Corruption Act. Prosecution has not established the charges beyond reasonable doubt. In the inquiry itself the prosecution could not prove the charges. Therefore, the applicant is already exonerated in the departmental inquiry. He placed reliance on the decision of Hon'ble Apex Court in the case of *Ashoo Surendranath Tiwari vs. Deputy Superintendent of Police, EOW, CBI* reported (2020) 9 SCC 636.

5. Per contra, learned APP strongly opposed the same and submitted that the statement of the informant and the statements of the other witnesses and raid conducted sufficiently shows the prima-facie material against the present applicant. In view of that the application deserves to be rejected.

6. Learned counsel for the non-applicant No.2 endorsed the same contentions.

7. On perusal of the entire investigation papers it reveals that FIR is lodged after five to six years of the incident. More over the recitals of the FIR itself shows that recording which was recorded at the time of the raid does not bear the voice of applicant. Voice sample of the present applicant already obtained and which is forwarded for the analysis. During pendency of this application inquiry was initiated by the concerned department against the present applicant. The report is before the Court which shows that in the departmental inquiry the present applicant was exonerated from the charges. Move over there is no explanation as to the delayed FIR lodged by the informant.

8. In the light of the above facts and circumstances and the observation of Hon'ble Apex Court in the case of ***Ashoo Surendranath Tewari (supra)*** wherein Apex Court has observed in paragraph No.12 which reads as under:-

“ 12. After referring to various judgments, this Court then culled out the ratio of those decisions in para 38 as follows: (Radheshyam Kejriwal case, SCC p.598)

“ 38. The ratio which can be culled out from these decisions can broadly be stated as follows;

- (i) Adjudication proceedings and criminal prosecution can be launched simultaneously;*
- (ii) Decision in adjudication proceedings is not necessary before initiating criminal prosecution;*
- (iii) Adjudication proceedings and criminal proceedings are independent in nature to each other.*
- (iv) The finding against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution.*
- (v) Adjudication proceedings by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20(2) of the Constitution or Section 300 of the Code of Criminal Procedure;*
- (vi) The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue; and*
- (vii) In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases.”*

9. It is further observed that “In our opinion”, the yardstick would be to judge as to whether the allegation in the adjudication proceeding as well as the proceeding for prosecution

is identical and the exoneration of the person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceedings, the trial of the person concerned shall be an abuse of process of the law.

10. Applying the above said observations of the Hon'ble Apex Court and considering the fact that the nature of the evidence required for the departmental inquiry is on the basis of the preponderance of the probability whereas the evidence require for the proving of the charge under criminal proceeding is beyond reasonable doubt as prosecution could not prove the charges in the departmental inquiry itself and therefore, applicant is exonerated from the charge. Therefore, continuation of the proceeding wherein the finding of the departmental inquiry or adjudication proceedings is on the merits would be an abuse of process of law. In view of the application deserves to be allowed.

11. Hence, I proceed to pass the following order:-

ORDER

- (i) The Criminal Application is allowed.

(ii) First Information Report in connection with crime No.91/2025 registered with the non-applicant No.2-Police Station Ural Akola punishable under Section 7 of the Prevention of Corruption Act, 1988 is quashed and set aside to the extent of applicant Vijay Sukhdeo Chavan.

12. The criminal applications stand disposed of in the above said terms.

13. The fees of the appointed counsel be quantified as per rules.

Pending applications, if any, also stand disposed of.

(URMILA JOSHI PHALKE, J.)

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