IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.1197 OF 2025

Shri. Avinash Chandrakant Shinde,
Age: 39 years, Occu: Service.
R/o. Sawargaon, Tq & Dist. Latur-413512
At present: Tulajabhavani Temple, Latur.
Tq&Dist: Latur ..Applicant

Versus

1. The State of Maharashtra,
Through: Police Inspector,
Mukhed Police Station,
Dist: Nanded

2. Shivaji Raman Shinde,
Age; 34 years, Occu: Service,
R/o C/o. Sub-Divisional Agricultural officer,
Degloor, Tq. Degloor, Dist. Nanded ..Respondents

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Mr. Yogeshwar L. Bidve, Advocate for Petitioner.
Mr. C. V. Bhadane, AGP for Respondent-State.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 19th JUNE, 2026.

JUDGMENT:-

1. The applicant seeks quashment of FIR No.171/2016 dated 27.11.2016 registered with Mukhed Police Station, District. Nanded, for offences punishable under Sections 409, 420, 465, 468, 471 r/w 34 of Indian Penal Code and consequential proceeding in RCC No.34/2048 pending before Judicial Magistrate First Class, Mukhed.

2. The investigation was set in motion on the basis of information given by respondent no.2 alleging that Integrated

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Water Shade Management Programme (IWMP) was implemented in Mukhed Taluka during period from 2011-2012 to 2012-2013, where alleged misappropriation has been done in work carried out at villages Dapka Raja, Maghyal, Vartala, Pakhedwadi, Shelkewadi, Taluka Mukhed. An inquiry was initiated on complaint lodged by one Raju Vijayrao Raherkar, R/o Mukhed, District. Nanded alleging that economic defalcation is made during period 2011-2012 to 2012-2013 in work done under Integrated Water Management Project. Pursuant to complaint, Sub-Divisional Officer made inquiry regarding work carried out under scheme and submitted inquiry report to Government. As per inquiry report, entries reflecting execution of works amounting to Rs.52,72,052/- were recorded. However, it was revealed that an amount of Rs.46,57,373/- had been misappropriated without any actual execution of corresponding work. False entries were allegedly made in Measurement Book to create semblance of completion of such works. Thus, only work to the tune of Rs.6,20,679/- was actually done.

3. Mr. Yogehswar L. Bidve learned advocate appearing for applicant submits that, applicant was employee of Agriculture Department and was working in Agricultural Office at Deoni on post of Assistant Agriculture Officer. He further submits that Government Resolution dated 31.07.2013 prescribes

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responsibilities of Officers for implementing Integrated Water Shed Management Programme and it is required to be noted that principal responsibility of implementation of said programme and release of funds is not with that of applicant, who was holding said post when alleged defalcation took place. On account of misappropriation, inquiry against all accused including applicant was initiated. After conducting inquiry, punishment was imposed by Disciplinary Authority to which Appeals were filed before Hon'ble Minister who had observed that there is no substance in allegations made findings in inquiry are baseless, eventually released applicant in Departmental proceeding. He pointed out that this Hon'ble Court in Criminal Application No.1349/2019 on 10th February 2025, pleased to quash proceeding against 10 accused persons.

4. Mr. C.V. Bhadane learned APP appearing for respondent vehemently opposes prayers of applicant contending that standard of proof for criminal prosecution and departmental inquiry are distinct. The standard of proof in departmental inquiry is not of same standard which is required to be proved in criminal prosecution. The criminal prosecution requires stricter and stringent standard of proof to prove allegation. Therefore, merely exoneration in departmental inquiry would not render criminal prosecution infructuous. Therefore, applicant's claim for quashing

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of FIR on basis of exoneration in departmental inquiry deserves to be rejected.

5. Having considered submissions advanced by learned advocates appearing for respective parties and on perusal of FIR, material in charge sheet, documents produced and order passed by this Court in Criminal Application No.1349/2019, whereby this Court quashed FIR against co-accused.

6. This Court after considering observations made by Hon'ble Supreme Court in cases of ***P. S. Rajya Vs. State of Bihar***[1] and ***Lokesh Kumar Jain Vs. State of Rajasthan***[2], wherein it is observed that while quashing FIR where allegations in departmental proceedings and FIR were identical, which could not be established in departmental inquiry, prosecution cannot be sustained against delinquent/accused.

7. In light of aforesaid exposition of law if prosecution is continued based on same allegations, wherein applicant has been exonerated in Departmental Appeal, continuation of criminal proceeding would amount to abuse of process of law. Therefore, in view of guidelines of Hon'ble Supreme Court in case of ***State Of Haryana And Others vs. Ch. Bhajan Lal and Others***[3], and **R. P. Kapur vs. The State of Punjab**[4], and considering that

1 **(1996) 9 SCC 1.**
2 **(2013) 11 SCC 130.**
3 **1992 SCC (Supp.) (1) 335.**
4 **(1960 3 SCR 388/**

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allegations made against applicant has proved to be false, incorrect and misplaced, whereby orders exonerating applicant, as inquiry report itself has been found to be incorrect by Hon'ble Minister, FIR as well as Criminal Proceeding registered against applicant deserves to be quashed and set aside.

8. In result, Criminal Application is allowed in terms of prayer Clause (B).

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/June-2026