

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1770 OF 2023

Dr. Bipin Mohanlal Trivedi,
Age 70 years, Occu. Business,
R/o 9, Gopalnagar Society, Canal Road,
Near BRST Bus Stand, Parvat Patiya,
Surat.

..Petitioners

VERSUS

The State of Maharashtra
(Copy to be served on Assistant
Public Prosecutor, High Court,
Bench at Aurangabad).

..Respondent

...
Mr. U.S. Malte, Advocate for Petitioner
Mrs. A.S. Mantri, AGP for Respondent/State.

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

RESERVED ON : JANUARY 21, 2026

PRONOUNCED ON : MARCH 06, 2026

JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally with consent of parties.
2. The petitioner seeks quashment of F.I.R No. 32 of 2006 registered with Police Station, Erandol and consequential proceedings under R.C.C. No. 51 of 2020 pending before learned J.M.F.C., Erandol for offences punishable under section 420, 468, 471, 34 of Indian Penal Code read with Section 63(3), 63(4), 63(6), 63(8), 63(12) of Bombay Sales Tax Act, 1959.

3. The investigation was set in motion on the basis of information given by one Mr. Pandurang Amrutrao Borkar, Assistant Sales Tax Commissioner, Jalgaon. It is alleged that petitioner is Director of M/s. Paradise Petrochemical Private Limited. The said company has shown disposal of Nafta to various industries. On inquiry, it is revealed that those were non-existent or wound up companies. As such by preparing false documents of sale of Nafta, payment of sales tax has been avoided. The investigation progressed in the matter and final report/charge sheet has been filed in the Court of J.M.F.C. at Erandol. Eventually, R.C.C. No. 51 of 2020 is registered and same is pending for trial. The petitioner is shown as accused no. 3 in the charge sheet.

4. The gist of allegations in the charge sheet states that accused persons in collusion with each other, prepared false documents regarding disposal of goods manufactured by Paradise Petrochemical Private Limited and by showing sale beyond the State of Maharashtra, availed tax rebate during period from 2001 to 2004. It has been revealed during investigation that disposal/sale pertains to non-existing units/companies. The accused persons paid tax at the rate of 4% as against 13.3% as leviable for sale in the State of Maharashtra.

5. Mr. Malte, learned advocate appearing for petitioner would submit that petitioner was not Director of Paradise

Petrochemical Private Limited at the relevant time. He resigned from the post of Director with effect from 31.05.2000, since then, he has no concern whatsoever with the company. The petitioner has submitted the details regarding his resignation and documents pertaining to change and information as contemplated under section 303(2) of Companies Act 1956. He would submit that previously, he had filed Criminal Writ Petition No.767 of 2006 before this Court for quashing of FIR. However, said writ petition was disposed of giving liberty to petitioner to furnish documents pertaining to his resignation to investigating officer, so that he can look into the same before filing charge sheet. He would submit that, charge sheet has been filed on 10.12.2020 without considering documentary evidence tendered into service by petitioner.

6. Per contra, learned APP for the respondent/State justifies registration of offence and filing of charge sheet against petitioner for the offences as alleged. She would submit that, although the petitioner had resigned from directorship, the land where Paradise Petrochemical Private Limited is situated, is owned by petitioner. As such, he has every knowledge of transaction of company.

7. Having considered submissions advanced, it can be observed that entire allegation in the FR is regarding preparation of false record for evading of sales tax by company. In nutshell, it is alleged that sale of goods, manufactured in the State of Maharashtra,

in other states entitles the company for rebate on applicable tax. The Paradise Petrochemical Private Ltd, availed such rebate on the basis of false documents/record depicting the sale out of State of Maharashtra. Apparently, the allegation is as to commission of offence by the company, it is trite that when offence is committed by the company, which is a separate jurisdic entity, the Director or any other responsible officer can be prosecuted along with company.

8. Perusal of charge sheet would show that petitioner is neither found to be director nor office bearer of company during the period of commission of offence. The documents on record would show that petitioner was appointed as Director of the company in the year 1999. However, he resigned from the post of director on 31.5.2000. The change was reported to the Registrar of companies, and that has been noted in the register of companies. Apparently from 31.05.2000, the petitioner is unconcerned with the company. At this stage reference can be to observations of Supreme Court in case of ***Harshendra Kumar D. Versus. Rebatilata Koley and Others*** reported in (2011) 3 SCC 351 reads thus:-

“25. It is fairly settled now that while exercising inherent jurisdiction under Section 482 or revisional jurisdiction under Section 397 of the Code in a case where complaint is sought to be quashed, it is not proper for the High Court to consider the defence of the accused or embark upon and enquiry in respect of merits of the accusations. However, in an appropriate case, if on the face of the documents- which are beyond suspicion or doubt placed by the accused, the accusations against him cannot stand, it would be travesty of justice if the accused is relegated to trial and he is asked to prove his defence before the trial court. In such a matter, for promotion of justice or to prevent injustice or abuse of process, the High Court may look into the

materials which have significant bearing on the matter at prima facie stage.

26. Criminal prosecution is a serious matter; it affects the liberty of a person. No greater damage can be done to the reputation of a person than dragging him in a criminal case. In our opinion, the High Court fell into grave error in not taking into consideration the uncontroverted documents relating to the appellant's resignation from the post of Director of the Company. Had these documents been considered by the High Court, it would have been apparent that the appellant has resigned much before the cheques were issued by the Company."

9. In this background, if allegations in F.I.R. are considered, it can be observed that alleged offences have been committed during period from 01.04.2001 to 31.03. 2003. The petitioner was neither director nor he was in charge of business of company in any capacity during relevant period. The material in charge sheet nowhere discloses petitioner's role in commission of offence. Thus, continuation of prosecution against petitioner would be abuse of process of law. Therefore, it is imperative to exercise inherent powers under section 482 of Criminal Procedure Code.

10. At this stage, reference can be given to the guidelines laid by Hon'ble Supreme Court in the case of ***State of Haryana and Others Vs. Ch. Bhajan Lal and Others***, reported in ***AIR 1992 SC 604***, which read as under :

"108. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of

justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

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.

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.

11. The Hon'ble Supreme Court observed in Clause 1 and 3 that 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, the contention of prosecution cannot be countenanced and it would serve no useful purpose.

12. In backdrop of aforesaid factual and legal position, criminal writ petition is allowed in terms of prayer clause (A) and (B).

13. Rule is made absolute in above terms.

(S.G. CHAPALGAONKAR, J.)