

MHBH010011222024



Received on: 14.08.2024
Registered on: 17.08.2024
Decided on: 03.11.2025
Duration: 01Y-02M-19D

Exh.13

IN THE COURT OF SESSIONS JUDGE, BHANDARA.

(Presided over by Bharti Kale, Addl. Sessions Judge, Bhandara)

CRIMINAL REVISION NO. 53 OF 2024

(CNR No.MHBH010011222024)

- 1) **Neman S/o Yadorao Turkar,**
Age: 58 years, Occ.: Retired,
R/o. Tumsar,
Tah. Tumsar, Distt. Bhandara.
- 2) **Sunil S/o Anandrao Wankhede,**
Age: 50 years, Occ.: Service,
R/o. Khat Road, Bhandara,
Tah. Distt. Bhandara.

... **Petitioners**

-Versus-

- 1) **Rajesh s/o Onkar Biranware,**
Age: 48 years, Occ.: Business/ cultivator,
R/o. Bramhantola,
Tah. Tumsar, Distt. Bhandara.
At present: Devhadi,
Tah.: Tumsar, Distt.:Bhandara.
Respondent/Original complainant

**Respondent/
Original
complainant**

- 2) **Dnyaneshwar s/o Raghuji Nagpure,**
Age: 58 years, Occ.: Service,
R/o. New Laxmi Nagar,
Near Hanuman Mandir, Gondia,
Tah. Distt. Bhandara .
Respondent/original non-applicant No.1

***Respondent/
original non-
applicant No.1***

3) **State of Maharashtra,**
Through Collector, Bhandara,
Tah. Distt. Bhandara.

... **Respondent**

**CRIMINAL REVISION APPLICATION UNDER SECTION 438 OF THE
BHARTIYA NAGRIK SURAKSHA SANHITA, 2023.**

Shri P. M. Ramteke, the petitioner's advocate.
Shri. K. S. Motwani, advocate for the respondents.

MHBH010008662024



Received on: 26.06.2024
Registered on: 28.06.2024
Decided on: 03.11.2025
Duration: 01Y-04M-
07D

IN THE COURT OF SESSIONS JUDGE, BHANDARA.

(Presided over by Bharti Kale, Addl. Sessions Judge, Bhandara)

Exh.13

CRIMINAL REVISION NO. 38 OF 2024
(CNR No.MHBH010008662024)

Dnyaneshwar s/o Raghuji Nagpure

Age: 58 years, Occ.: Service,
R/o. New Laxmi Nagar Near
Hanuma Mandir, Gondia,
Tahsil and Distt. Gondia.

... **Petitioner**

-Versus-

1) **Rajesh s/o Onkar Biranware,**
Age: 48 years, Occ.: Business/ cultivator,
R/o. Bramhantola,
Tah. Tumsar, Distt. Bhandara.
At present, Devhadi,
Tah. Tumsar, Distt. Bhandara.

**Respondent/Original
complainant**

- 2) **Neman S/o Yadoraao Turkar,**
Age: 58 years, Occ.: Retired,
R/o. Circile Officer, Devhadi,
Tah. Tumsar, Distt. Bhandara.

***Respondent /
original non-
applicant No.2***

- 3) **Sunil S/o Anandraao Wankhede,**
Age: 55 years, Occ.: Service,
R/o. Khat Road, Bhandara,
Tah. Distt. Bhandara.

***Respondent /
original non-
applicant No.3***

- 4) **State of Maharashtra,**
Through Collector, Bhandara,
Tah. Distt. Bhandara.

... ***Respondent***

CRIMINAL REVISION APPLICATION UNDER SECTION 397 OF THE Cr. P.C.

Smt. R. S. Ramteke, learned advocate for the petitioner.
Shri. K. S. Motwani, learned advocate for respondent No. 1.
Shri. P. M. Ramteke, learned advocate for respondents Nos. 2 and 3.
Shri. V. B. Bhole, learned advocate for the respondent No.4.

COMMON JUDGMENT

(Delivered on this 3 November 2025)

1. In both the petitions, the petitioners are non-applicants/ accused in the complaint case filed by the respondent No.1. They are challenging the order of issuance of process passed on 17.0.7.2023 by the J. M. F. C. for the offence punishable under section 420, 471 and 481 of I.P.C. Considering the similar nature of ground raised, both the petitions are decided together.

2. The petitioners have stated that the complainant filed a complaint alleging that they made fraudulent mutation entries on 24 November 2021, regarding the landed property of the complainant's mother. This order of mutation was subsequently set aside by the additional collector and remanded for fresh consideration. The petitioners argue that the trial court's order was

not based on the evidence available in the record. They contend that the trial court should have directed the complainant to produce the relevant documents or ordered an inquiry under Section 202 of the Code of Criminal Procedure before issuing the summons. Furthermore, the trial court incorrectly assumed that the petitioners' actions were not performed in their official capacity. Additionally, the trial court failed to recognise that no prior sanction had been obtained for prosecuting the petitioners, who are public servants acting in their official roles.

3. I have heard advocate for the petitioners and respondents. Perused the papers of the case. The following points arise for my determination.

<u>POINTS</u>	<u>FINDINGS</u>
1) Is the order passed by the learned Judicial ... Magistrate legal, correct and proper?	Yes
2) Whether interference is required in the ... order passed by the trial court?	No
2) What order?	... Revision is dismissed

REASONS

As to points No.1 to 3 :-

4. The advocate for the petitioners has submitted that the petitioners have acted in their official capacity. Hence, before filing the complaint, a sanction was required. The petitioners are public officials. Therefore, the complaint was not maintainable.

5. Per contra, the advocate for the complainant has submitted that the petitioners have acted beyond their official capacity.

6. Upon reviewing the complaint, it is clear that the complainant has stated that Dnyaneshwar Nagpure, the petitioner, is a relative. The complainant has further alleged that the petitioners forged documents to transfer the land belonging to his mother into their own names. He has challenged these mutation entries, and his appeal was upheld. The complainant has made specific allegations against the petitioners, accusing them of committing forgery.

7. The petitioners' advocate argued that prior sanction from the competent authority is required before the complaint can be filed. The trial court held in its order that the petitioners' actions exceeded their official capacity. This order appears to be supported by the evidence on record. The petitioners are revenue officials who interact with farmers at the initial stage for recording entries related to their agricultural fields, and many of these farmers are illiterate. Consequently, it was the official duty of the petitioners to act in accordance with the law and not to commit fraud. The trial court recorded the complainant's statement and deemed it appropriate to issue a process. It did not find it necessary to call for a report under Section 202 of the Criminal Procedure Code (Cr. P.C.). Therefore, there is no illegality in the trial court's decision not to call for such a report.

8. The advocate for the accused has referenced the judgment in Prabhakar s/o Kerba Dubbewar vs. The State of Maharashtra, dated 15 April 2009, in Criminal Application No. 2126/2001 from the Bombay High Court Bench at Aurangabad, to argue that prior sanction is necessary. In that case, evidence was presented showing that the accused acted in their official capacity while performing their duties. However, in the present situation, no such evidence has been submitted to support the petitioners' claims. There are specific allegations against the petitioners stating that they forged the order of

mutation, which was later set aside. Given these circumstances, I conclude that there is no illegality or impropriety in the order issued by the trial court. Therefore, no intervention in the trial court's order is warranted. Consequently, I will proceed to issue the following order:

ORDER

- 1) The revision petitions are dismissed.
- 2] No order as to costs.

Date:-03.11.2025.

(Bharti Kale)
Additional Sessions Judge,
Bhandara.

CERTIFICATE

I affirm that the contents of this PDF file judgment are the same word-for-word as per the original judgment.

Name of Steno	: A.J.Khobragade
Court Name	: Addl. Sessions Judge, Bhandara
Date of Dictation	: 03.11.2025
Order signed by the P.O. on	: 03.11.2025
Order uploaded on	: 04.11.2025