

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3994 OF 2015

SUNIL MADANLAL AGRAWAL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA & ANOTHER

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Advocate for Applicants : Mr. V A Bagdiya
APP for Respondents: Mr. A R Kale
Advocate for Respondent for 2 : Mr. Chatterji Joydeep

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CORAM : A.V. NIRGUDE & V.K. JADHAV, JJ.

Dated: October 27, 2015

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PER COURT :-

1. This criminal application seek quashment of criminal proceeding initiated through private criminal complaint no.918/2015 filed before the learned Judicial Magistrate First Class, Aurangabad against the applicants. It is alleged in the complaint that the applicants handed over their room to respondent no.2 complainant for starting restaurant business prior to giving possession, necessary documentation, regarding lease deed, etc. The incident took place in the year 2015. The respondent no.2 alleged that the applicants started threatening him to dire consequences if he did not vacate the room given to him. At one place in the complaint, respondent no.2 also stated that, all his belonging kept in the room were taken over by applicants etc. It is not clear from the complaint as to whether the complainant is still running the hotel business or whether he was dispossessed without following due process of law. He alleged that the applicants committed criminal breach of trust, cheating, wrongful restraint, theft, etc. The complaint does not make out

any offence on the face of it. Yet the learned Magistrate thought it fit to issue order under section 156 (3) of Code of Criminal Procedure directing the police to investigate the same. The offence was registered thereafter. The case is under investigation. We are constrained to observe that complaint was badly drafted. It did not make out any offence. Learned Magistrate ought to have dismissed the complaint instead of entertaining it.

2. Having regard to the contents of complaint as well as the defence raised by the applicants, it appears to us that this is a dispute of civil nature. However, beyond this, we are not inclined to observe any other things in this case. We are examined only the merits of the complaint lodged before the Magistrate and subsequent First Information Report registered against pursuant to it. If these two statements do not give rise to any criminal offence, we must quash the proceeding. We are, therefore, pass following order.

ORDER

1. Criminal Application is allowed in terms of prayer clause 'B'.
2. Proceedings are quashed.
3. Application stands disposed of.

(V.K. JADHAV, J.)

(A.V. NIRGUDE, J.)

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aaa/-