

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

CRIMINAL APPLICATION NO. 4488 OF 2012

RAJNISH BRIJLAL VASAIKAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. J. R. Shah
APP for Respondent No. 1 : Mr. S. P. Deshmukh
Advocate for Respondent No. 2 : Mr. N. N. Desale

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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 4th DECEMBER, 2015

PER COURT :-

1. Vide the present application, the applicants pray to quash the complaint / F.I.R. filed by respondent No. 2 registered as Crime No. 145 of 2012 dated 20th September, 2012 registered on the basis of order passed by the learned Judicial Magistrate First Class, Nandurbar in Criminal Case No. 179 of 2012.

2. Mr. Shah, learned counsel submits that, dispute between the parties is of civil nature. Even a suit is filed by respondent No. 2. Crime registered for offence punishable under Section 120-B, 420, 406, 407, 409, 469, 471, 468 and 34 of I.P.C. is unsustainable. Dispute between the parties is purely of civil nature. The acts as alleged, have never been committed. Even the Police have completed investigation and they have found that no crime is committed by the present applicant.

3. Mr. Desale, learned counsel for respondent No. 2 opposes the application and submits that it is only after the trial is conducted, the real things would come to light. The complaint is based on true and correct facts. The applicants are guilty of the offences, for which crime is registered.

4. We have considered the submissions. We have also gone through the affidavit filed by the Police Sub-Inspector, Police Station, Nandurbar. In the affidavit, it is clearly stated that investigation is complete. Through the course of investigation, it reveals that the sale deed in respect of plots in survey No. 293/4 and 293/5 has been executed properly and legally on the basis of original documents. No offence of cheating to complainant is made out and no financial cheating appears to have been caused to the complainant.

5. Reading the complaint and the affidavit filed by Police Sub-Inspector, it appears that the dispute between the parties is purely of civil nature.

6. This Court, vide interim order dated 22.01.2013 directed the respondents to complete the investigation, however, stayed the Police authorities from filing final report. Now, affidavit is filed on record stating that the investigation is complete and upon investigation, the offence of cheating as against the present applicants is not made out.

7. Considering the aforesaid aspects of the matter, the F.I.R. Registered as Crime No. 145 of 2012 dated 20th September, 2012 on the basis of order passed by the Judicial Magistrate (First Class), Nandurbar, in criminal case No. 179 of 2012 is quashed and set aside to the extent of the applicants.

8. Criminal Application is accordingly disposed of.

9. It is made clear that our observations are restricted to the present application only.

(V.K. JADHAV, J.)

(S V GANGAPURWALA, J.)

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