

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICAITON NO. 183 OF 2002

Ganpatrao Piraji Salunke Patil,
Age 73 years, r/o. At & Post Savali,
Tal . Miraj, Dist. Sangli.

.Applicant.

vs.

1) Shri. Mehboob Abbas Inamdar,
Age 42 years, P.S.I. attached to
Pydhonie Police Station in Zone No.1,
Mumbai.

2. State of Maharashtra,

...Respondents.

Mr. Umesh Mankapure with Mr. Vinbod Sangvikar
for the Applicant..

Mrs. A.A.Mane, APP. for Respondent No.2.

CORAM : C.V. BHADANG, J.

DATE : APRIL 27, 2015.

ORAL JUDGMENT :

Heard Mr. Mankapure for the applicant
and the learned APP. Mrs. A. A. Mane for the
2nd respondent.

2) The brief facts are that the applicant
who is the original complainant had filed a
complaint against the 1st respondent which was

registered as Criminal Case NO.15/MISC./2001 alleging commission of offence under Section 420 and Section 406 of the I.P.C. According to the applicant the 1st respondent accused Mehboob Inamdar was known to him. The applicant along with Abbas Abdul Inamdar, Mehboob Wahab Shauikh and one Yunus Mehboob Aga had jointly agreed to purchase a piece of land from one Mijimil Abdul Karim Bhokre, his brother and two cousins bearing survey No.787/2 Area 20 R situated at Miraj for the consideration of Rs.20 lacs. This was on 21 October 1994. It is stated that on payment of Rs.1.00 lac by all the purchasers agreement was executed However, it transpired that the said land was under reservation. Although attempt was made to get the land de-reserved but to no avail. The material case in the complaint was that the applicant had paid an amount of Rs.2.00 lacs to the first respondent who had promised to get the land dereserved from the concerned authority. The complaint came to be filed with the allegation that the first respondent dishonestly induced the applicant to part with Rs.2.00 lacs and thus cheated the applicant.

3) The learned Magistrate recorded the verification of the applicant on 9 March 2001. By an order dated 16 March 2001, the complaint was sent for enquiry under Section 202 of the Cr.P.C. On receipt of the report, the learned Magistrate by order dated 9 November 2001 refused to issue process and dismissed the complaint under Section 203 of the Cr.P.C.

Feeling aggrieved the applicant is before this court.

4) It is submitted by the learned counsel for the applicant that as the respondent is a Police Officer, the report of enquiry under Section 202 of the Cr.P.C. was one sided did not bring out the facts. It is submitted that the learned Magistrate was in error in relying upon the report under Section 202 of the C.P.C. It is submitted that the learned Magistrate was also in error in holding that the complaint was filed as a counter blast to pressurize the 1st respondent to withdraw the complaint which 1st respondent has filed against the applicant.

5) I have considered the rival

circumstances and the submissions made. The main reason for which the learned Magistrate has refused to issue the process is that, on the complainant's own saying that he had parted with Rs.2.00 lacs in favour of the 1st respondent as consideration for getting the land dereserved. It has been found that the amount was parted with for illegal purpose. Although the learned Magistrate has also found on the basis of the report of the enquiry under Section 202 of the Cr.P.C. that there was no documentary evidence to support the allegations about the applicant paying Rs.2.00 lacs to the 1st respondent, the main reason as noticed above is that the transaction itself was illegal. I have carefully considered the circumstances and the submissions made and also the reasoning recorded by the learned Magistrate. I do not find that the impugned order shows exercise of jurisdiction with material irregularity. In that view of the matter no interference is called for. Revision application is accordingly dismissed.

(C.V. BHADANG, J.)