

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

1. Criminal Application (ABA) No. 48 of 2015

Vaishali w/o Nitin More vs. State of Maharashtra

Ms. S. Maniyar, Advocate for the applicant.

Mr. P.V.Bhoyar, APP for the State.

2. Criminal Application (ABA) No. 26 of 2015

Suresh Sitaramji Kale and another vs. State of Maharashtra

Mr. S.V.Sirpurkar, Advocate for the applicants.

Mr. P.V.Bhoyar, APP for the State

Notes, Office Memoranda of

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's
Orders.

CORAM : PRASANNA B. VARALE, J

DATE : 28.4.2015

Both these applications arise out of Crime No. 180/2014 registered at the Police Station Akot and as such they are heard together and decided together.

The applicant no.1 is Suresh Kale and applicant no. 2 is Suryaprakash More in Criminal Application No. 26 of 2015 whereas applicant Vaishali More is a applicant in Criminal

Application No. 48 of 2015. Perusal of the report lodged at the instance of one Rahul Berad shows that the informant/complainant was in need of a job. He was an educated unemployed, who had completed his B.Com. Degree. He was approached by his friends viz. Dipak and Umesh. They assured that they are in a position to provide job to Rahul in D.R.D.O., Nagpur Division. It was impressed upon Rahul that the brother of Umesh viz. Nitin More is in employment in the same department and for providing the job, Rahul will have to pay some amount. On 9.3.2014 Dipak and Umesh informed Rahul that Nitin is available. Then he was introduced to Rahul. Nitin assured the job. On an enquiry made by Rahul about the nature of the job, it was informed that Nitin can provide him job of a Clerk in D.R.D.O. and for that he will have to pay Rs. 7 lacs. Rahul agreed to pay the amount. It was informed that initially an amount would be Rs. 4 lacs and the part payment of Rs. 3 lacs will have to be made after the appointment. On 27.4.2014 again Umesh and Dipak informed Rahul that he is called by Nitin and he should keep the amount ready. On approaching Umesh at his residence, Rahul found Nitin along with two male members and a female member unknown to Rahul. They were introduced by Nitin as

Suresh Kale and Suryaprakas More the father of Nitin More and the lady was introduced as Vaishali More, officer in D.R.D.O.. It was informed that as these are the persons, who are working in D.R.D.O., the job of Rahul is assured. Suryaprakash also assured Rahul by saying that he should not bothered about his amount. Accordingly, Rahul parted away with Rs. 4 lacs. On 1.5.2014 Dipak informed that the appointment letter on the post of Clerk is ready and that letter was handed over to Rahul. Accordingly, Rahul had been to D.R.D.O. Office, Nagpur at about 11 O'clock finding Nitin More outside the office. Rahul then entered in the office. Rahul found some persons having acquaintance with him near the office viz. Nitesh , Suraj , Sachin, Nitin. Rahul and other persons entered in the office and made inquiry. To their surprise, it was revealed that there was no such employment available in the office and all these persons were cheated by Nitin. Accordingly, the report was lodged.

Mr. Sirpurkar, the learned counsel for the applicants in Application No. 26 of 2015 and Ms Maniyar, the learned counsel for the applicant in Application No. 48 of 2015 vehemently submitted that the report is a bundle of far fetched

facts and a story blown out of proportion. The learned counsel for the applicants submitted that as per the report itself the assurance of providing the job was given by Dipak and Umesh. The learned counsel submitted that Dipak and Umesh also made demand of money for providing job and the informant/ complainant Rahul himself expressed his wish to part away with the amount. Mr. Sirpurkar, learned counsel for the applicants in Application No. 26/2015 submitted that the only role attributed to these applicants is of their casual meetings and the presence when the demand was made and the amount was parted away. He then submitted that even the factual aspect of accepting the amount is attributed to the main accused Nitin. He then submitted that the applicant No.1 Suresh is the maternal uncle of Nitin and he is a Professor/ lecturer in a reputed college and working as a permanent employee of Shriram Mahila Mahavidyalaya.

Mr. Sirpurkar submitted that the applicant no.1 Suresh was appointed in the year 1997 and till date he is engaged in the academic field discharging his duties parting education to the students. He then submits that the applicant no.2 Suryaprakash is the father of the main accused Nitin. He

then submitted that being a close relative of Nitin, their presence in a house along with Nitin is natural and it cannot be a ground to raise suspicion against these two applicants. He then submitted that there were allegations against Nitin that he played mischief and accepted the amount. Certain persons approached the applicant no.1 so as to seek return of the amount on the backdrop of the fact that the applicant no.1 Suresh is a permanent employee and he will be in a position to make goods of their losses. Mr. Sirpurkar, then submitted that bona fide the applicant no.1 also made some attempts to repay the amount. He then submits that though it is alleged the amount was accepted by Nitin and other persons on 1.5.2014, the report was lodged at Akot Police Station on 29.12.2014 i.e. nearly after six months. He then submits that in the report the delay of six months is not at all explained by the informant/complainant and on the backdrop of the fact that the informant/ complainant is an educated person and alleges that the mischief was played, the delay of six months on the part of the informant/ complainant raises suspicion over the story of the informant/complainant. He then submits that the applicant no.2 is a retired employee and in his advanced age.

Mr. Sirpurkar then submits that the applicants were protected by the interim orders of this court and the applicants are ready to cooperate with the Investigating Agency. He then submits that considering the background of the applicants, there cannot be any apprehension that these applicants would not be available for the investigation or they will flee away. He then submits that as the main accused Nitin More is already arrested by the Investigating Agency, against whom all the allegations are levelled, the custodial interrogation of the applicants is not necessary. The learned counsel, thus, prays for protection in the nature of the arresting them.

Ms Maniyar, learned counsel for the applicant in Application No. 48/2015 adopts the submissions of Mr. Sirpurkar largely. In addition, Ms Maniyar submits that the applicant is a lady who entered in the services of Jawaharlal Nehru Medical College as a Lab technician in the year 2010 and till date she is attached to Acharya Vinoba Bhave Rural Hospital at Datta Meghe Institute of Medical Sciences. Ms Maniyar submits that the applicant being a lady, there cannot be apprehension that she would flee away from her usual place of residence as well as her usual place of service. Ms

Maniyar then submits that on vague allegations if the applicant is subjected to detention, same would cause irreparable loss to the service career of the applicant. The applicant is ready to cooperative with the Investigating Agency.

The learned APP vehemently opposes the applications and submits that in the process of the investigation, the Investigating Agency has collected numerous statements of the other unemployed youths who were subjected to the modes operandi of these applicants. The learned APP submits that the assurance was given by these applicants for providing the job and in the statements of these witnesses it reveals that the applicants Suresh Kale and Vaishali More were not only present on the spot but they also accepted the amount from these witnesses.

Considering the submissions of the learned counsel for the applicants and the learned APP, I have gone through the material collected by the Investigating Agency. Insofar as the report lodged at the instance of Rahul is concerned, the report only refers the presence of these two applicants and their assurances to the informant/ complainant

of not to be bothered. The allegations are mainly revolving around the undertaking given by Nitin to provide the employment accepting the amount by Nitin and providing the appointment letter which subsequently was found fabricated by Nitin. Though there are the other statements recorded by the Investigating Agency referring to the part played by these applicants, these statements are recorded at belated stage and the report which is itself at belated stage reference no positive role of these applicants. It is also not in dispute that the applicant no.1 Suresh Kale is till date in employment in an academic institute working as professor. Similarly, the applicant in Application no. 48 of 2015 is also in employment in a Private Medical College. The applicant in Application no. 48 of 2015 is a lady whereas the applicant no.2 Suryaprakash in Application No. 26/2015 is a person in his advanced age. There is nothing on record to suggest that all these applicants are having any criminal antecedents to discredit these persons. Considering all these aspects, I find merit in the submissions of the learned counsel of the applicants. The apprehension expressed by the State can be taken care of by imposing the conditions.

The applications are allowed. Interim protection granted to these applicants is confirmed with a condition that the applicants to attend the Police Station, Akot on every second and fourth Sunday between 9.00 a.m. to 12 noon and to maintain the diary of their attendance duly countersigned by the concerned P.S.O.. In case of any breach of the conditions, the State is at liberty to approach this court .

JUDGE

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