

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

Criminal Application [ABA] No.144 of 2015

(Sevakram Shalikram Raut

vs.

The State of Maharashtra, through P.S.O., Saoner, District Nagpur)

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Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

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Court's or Judge's Orders

Mr. N.A. Gaikwad, Advocate for the Applicant.

Mrs. Mayuri Deshmukh, A.P.P. for the Non-Applicant/State.

CORAM : PRASANNA B. VARALE, J.

DATE : APRIL 20, 2015.

Heard the learned Counsel for the applicant and
the learned A.P.P. for the State.

The applicant is before this Court seeking
protection in the nature of pre-arrest bail in connection with
Crime No.251/2014, registered at Saoner Police Station,
District Nagpur for the offences punishable under Section 420,
447 and 120-B of the Indian Penal Code read with Section 39
of the Maharashtra Money Lending (Regulation) Ordinance,
2014.

The learned Counsel for the applicant, by inviting
my attention to the report lodged at the instance of the
informant/complainant Mr. Balwant Kuhite, submits that the
informant was facing financial constraints and at his own, he
approached the applicant.

He submits that in the report itself, it is stated that towards the repayment of loan amount of Rs.5,00,000/- with interest thereon at the rate of 2% per month, the informant/complainant executed a sale-deed dated 04/07/2013 in favour of the applicant, as a security, and the informant himself was party to the same. The learned Counsel further submits that the informant by twisting the facts lodged the report. He further submits that it does not stand to the reason that the parties, who executed the sale-deed for any consideration in accordance with the market rates and out of these parties, one party would accept that even though he parted away the reasonable consideration according to the market rates, would easily allow the other party for not proceeding the appropriate remedy of mutation in spite of parting the amount and in case of failing the other party to return the amount. The learned Counsel then submits that the applicant had availed the appropriate remedy of seeking mutation and the Revenue Officer passed the order on 29/08/2013 in favour of the applicant. He submits that the complainant being dissatisfied with the order passed by the revenue authority filed an appeal before the Sub-Divisional Officer, Saoner. He then submits that the applicant parted

away an amount of Rs.2,00,000/- by cheque in favour of the informant/complainant and as there was breach of the assurances, the applicant also availed a civil remedy in the nature of filing suit for recovery of the amount. The submission of the learned Counsel for the applicant is, the applicant, who had availed all possible legal remedies, was subjected to a false complaint at the instance of complainant, who was carrying an ulterior motive. The learned Counsel thus prays for the protection. He submits that the applicant, who was protected by an interim order of this Court dated 18/03/2015, complied the order passed by this Court.

The learned A.P.P. opposes the application.

I have gone through the material placed on record as well as the document presented by the learned Counsel for my perusal viz. the appeal filed by the complainant challenging the order passed by the revenue authority in respect of mutation and the civil suit filed by the applicant. The perusal of the report shows that the complainant not only alleges the present applicant of a mischief in respect of the said transaction, namely the sale-deed, he further alleges that the applicant himself with a vindictive approach filed a civil suit against him and is pressuring the informant. The informant then even makes oral allegation against the

Revenue Officer namely the Circle Officer, under whose order the mutation was effected. He states in the report that the Revenue Officer, who is the corrupt Officer, with an intention to cause mental and physical harassment to the informant/complainant passed the order. He then states in the report, the informant then alleges that the applicant played mischief with one Chandrakant Ghatole. The learned Counsel for the applicant also submits that a vague reference is made to the affidavit of Mr. Ghatole, but Mr. Ghatole had not approached any authority raising his grievance against the applicant.

Considering the material placed on record and considering the submission of the learned Counsel for the applicant, in my opinion, the learned Counsel was justified in submitting that a purely civil transaction between the parties was attempted to paint a criminal mischief played by the applicant. On the backdrop of the material placed on record, in my opinion, the learned Counsel for the applicant has made out a case.

In the result, the application is allowed. The interim protection granted to the applicant is made confirmed with a condition that the applicant to attend Saoner Police Station, District Nagpur on every second and fourth Sunday of the month between 09:00 a.m. to 12:00 p.m. and to maintain

a diary of his attendance duly countersigned by the Police Station Officer or the Investigating Officer till filing of the charge-sheet.

The application is disposed of as such.

JUDGE

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