

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

CRIMINAL APPLICATION (APL) NO. 294 OF 2015.

Mr.Ashish Ashok Jog ..vs.. State of Mah. and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms.R.V.Kalia, Adv. for the applicants.
Mr.S.M.Ukey, APP for the State.
Mr.S.D.Sirpurkar, Adv. for respondent no.2.

CORAM : A.B.CHAUDHARI AND
P.N.DESHMUKH, JJ.
DATED : JULY 29, 2015.

Following is the prayer Clause (i) in the present application.

“Quash and set aside the proceedings for offence punishable under Sections 406, 409 read with 34 of Indian Penal Code pending before the learned 31-2nd Additional Chief Judicial Magistrate, Nagpur bearing Regular Criminal Case No.303619/2007 against applicants.”

Admittedly applicants have made the payment of the entire amount of Provident Fund dues about which the department had grievance against the applicants for non-payment thereof.

Mr.Sirpurkar, learned counsel for the respondent no.2 – Department confirmed this position that the entire payment has been made over by the applicants. However, since there was a temporary misappropriation of money, as contended by Mr.S.M.Ukey, learned Additional Public Prosecutor, the FIR was registered and charge-sheet has already been filed. But then Ms.Kalia submits that the payment was

made over by the applicants before the charge-sheet was filed and therefore, in any case there is no occasion to continue the prosecution or keeping hanging sword.

We have given thoughtful consideration to the contentions raised by the learned counsel for rival parties. We find, the grievance of the department was that amount of Rs.59,888/- for the period May 2005 to October, 2006 was not made over to the department towards the provident fund.

In view of the payment of the entire amount to the Provident Fund Department, we do not find any point in prosecuting the applicants that too when small amount was involved. No purpose would be served in continuing the prosecution against the applicants for the alleged temporary misappropriation. That being so, we make the following order.

ORDER.

Criminal Application (APL) No. 294 of 2015 is allowed.

Rule is made absolute in terms of prayer Clause (i) of the application.

JUDGE

JUDGE

Chute.