

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

Criminal Application (APL) No.673 of 2013

Gajanan s/o Kundlik Nirmale

-Vrs.-

State of Mah. through P.S. Frezarpura and others.

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

Court's or Judge's orders.

Shri V.B. Gawali, advocate for applicant.
Shri T.A. Mirza, APP for respondent nos. 1 & 2.
Shri R.J. Mirza, advocate for respondent no.3.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : 09th JUNE, 2015

Heard advocate Gawali for applicant, learned APP for respondent nos. 1 & 2 and Advocate Mirza for respondent no.3.

Prayer in this application under section 482 of Cr.P.C. is to quash and set aside FIR No.142/2011 dated 30.5.2011.

Shri Gawali submits that there is no allegations against present applicant in the FIR and the ingredients of provisions of Section 3 & 4 of the Price Chit Fund and Money Circulation Act, 1970 are not made out. He submits that scheme has been formulated by Directors of the company and they are responsible for implementing it on day to day basis. He invites our attention to relevant portion of FIR to urge that

FIR only avers that applicant had accompanied a person by name Atul Jadhav to the residence of complainant i.e. respondent no.3.

Learned counsel for respondent no. 3 states that respondent no. 3 had also been shown as accused in similar complaint. According to him, respondent no. 3 is neither director nor a person responsible for day to day affairs of the company Aaryarup Tourisum Club Resort.

Learned APP has invited attention to the FIR page 13 & 14 and also to material procured during investigation. For that purpose, he read out paragraph 5 & 6 of the affidavit-in-reply filed by non-applicant no.2 Superintendent of Police on 17.1.2014.

Perusal of FIR shows that it is also under Section 406 and 420 of IPC. Respondent no. 3 has stated therein that in January 2010 she got telephone call from present applicant. He gave details about the benefits of investment in the company Aaryarup Tourism Club Resort. After giving that information, he came to her place along with Atul Jadhav. Therefore, it cannot be said that FIR does not implicate present applicant at all.

The affidavit in reply tendered by respondent no. 2, mentioned supra, in paragraph 5 shows that said officer has recorded statements of about 204 investors who have told about the fraud committed by the company through the agents. During investigation, he found that present applicant himself has acted as agent though he was working as police constable in the District Special Branch of State Intelligent Department at

Hingoli. He opened account in I.C.I.C.I. bank thereby inducing the innocent people to deposit amount in the company. He has also given details of amount deposited by five persons including respondent no.3. During investigation he found that one Ramchandra Thorat forwarded amount of Rs.50,000/- by cheque and applicant Gajanan had transferred an amount of Rs. 9 lakhs from bank account of his brother namely Balasaheb.

It is, therefore, apparent that applicant has some role to play in the matter. It cannot be said that averments in FIR or investigation does not bring on record any material against the applicant. Hence, at this stage, no case is made out for quashing and setting aside the FIR. Application is, therefore, rejected. No costs.

JUDGE

JUDGE