

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3435 OF 2016

Raghvendra Sheshrao Nagurde Patil .. Applicant

Versus

The State of Maharashtra & Anr. .. Respondents

.....
Mr Chatterji, Advocate for the applicant
Mr D. R. Kale, APP for respondent/State
.....

**CORAM : A.V.NIRGUDE &
V.L. ACHLIYA, JJ.
DATED : 19.07.2016.**

PER COURT :

1. As per our directions, the Investigating Officer is present before the Court with relevant police papers.

2. This application seeks quashing of Crime No. 377 of 2015 registered with Mukundwadi Police Station, Aurangabad for offence punishable u/s 406 of the Indian Penal Code. The complainant stated in the FIR that, on 29.05.2016, at about 9.30, he handed over his mobile phone to accused Gaikwad but he did not return the mobile phone to

him and left the spot. Ultimately, the mobile phone was found. The complainant thereafter changed his version and stated that, he had handed over his mobile phone not to accused Gaikwad but to present applicant. Such a drastic change in the version of the complainant was rather naively accepted by the Investigating Officer and he continued investigation against the applicant. We find that, there is no material against the applicant, which would prompt the Investigating Officer to initiate action against him. We also found that, the changed version of the complainant is unreliable, untrustworthy and probably dishonest. Even at this stage, we are inclined to discard it. If that statement is removed from consideration, nothing remains against the applicant. In view of this, the application deserves to be allowed and same is allowed accordingly.

3. The Crime No. 377 of 2015 is quashed as against the present applicant.

[V. L. ACHLIYA]
JUDGE

[A. V. NIRGUDE]
JUDGE