

(1)

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

**CRIMINAL APPLICATION NO.5689 OF 2016**

1. Rahul s/o Ekanath Andhale,  
Age : 22 Yrs, Occ. Business,
2. Shri Ekanath s/o Rambhau Andhale,  
Age : 50 Yrs, Occ. Business

R/o Both – H. No.79. Survey No.68,  
Jaibhawaninagar, CIDCO, N-4,  
Near Aurangabad ..APPLICANTS

VERSUS

The State of Maharashtra & anr. ..RESPONDENTS

Mr B.R. Jaybhay, Advocate for applicant;  
Mr S.S. Dande, Addl. Public Prosecutor for respondents

**CORAM : A.S. CHANDURKAR, J.**

**DATE : 28th November, 2016**

**ORAL ORDER :**

Heard.

2. The learned Counsel for the applicants, on instructions, does not press the present application insofar as applicant no.1 – Rahul Andhale is concerned.

3. According to the first information report lodged by one Kaduba Wagh, the present applicants and one Nitin Andhale had accepted an amount of Rs.50,000/- towards booking of an auto-rickshaw. It was stated that total consideration was Rs.1,63,600/-. For the remaining amount, the

(2)

loan was to be obtained. The payment was made on 2<sup>nd</sup> April, 2016. After seven days, the informant was informed that his loan case was not sanctioned. He, therefore, requested for return of the amount. The applicant no.1 issued a cheque to the complainant, but the same was dishonoured. On that basis, aforesaid offence came to be registered.

4. It is submitted by the learned Counsel for the applicant that the agency in question has been allotted to the applicant no.1 and the applicant no.2 is not concerned in any manner whatsoever. The applicant no.2 has been unnecessarily implicated. He, therefore, submits that the applicant no.2 would be entitled for protection.

5, Application is opposed by Shri Dande, learned Addl. Public Prosecutor by relying upon the police papers. It is submitted that the present applicants had indulged into similar transactions with two more persons and had deceived them. He submitted that acceptance of amount of Rs.50,000/- by applicant no.1 is an admitted fact as per his own statement. He, therefore, submitted that the application deserves to be rejected.

6. Perused the police papers. The same indicate that the agency in question is allotted to applicant no.1. The refund of amount of Rs.50,000/- accepted from the complainant is shown to have been effected by applicant no.1 by issuing a cheque. In these facts, the applicant no.2 would be entitled for protection.

(3)

7. In view of aforesaid, in the event of arrest of applicant no.2, in connection with C.R. No.295 of 2016, registered at MIDCO CIDCO, Police Station, Aurangabad, for offence punishable under Section 420 read with Section 34 of the Indian Penal Code, he shall be released on bail, on furnishing P.R. Bond of Rs.15,000/- with one surety in like amount.

- (i) The applicant no.2 shall attend the concerned police station on 5<sup>th</sup> December, 2016 and thereafter as per directions of the Investigating Officer.
- (ii) No steps shall be taken to influence the prosecution witnesses.

Observations made in the present order are only for the purposes of deciding this application.

Application, insofar as applicant no.1, is permitted to be withdrawn and it is allowed insofar as applicant no.2 is concerned.

**(A.S. CHANDURKAR, J.)**

amj