

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

CRIMINAL APPLICATION NO. 5850 OF 2015

Mahesh s/o. Atmaram Khatri .. Applicant

Versus

The State of Maharashtra & Anr. .. Respondents

Mr.M.C. Ghode h/f. Mr. S.A. Ambad, Advocate for the applicant.

Mr.A.R. Borulkar, A.P.P. for respondent/State.

Mr.N.K. Kakade, Advocate for respndent No.2.

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

DATED : 18.07.2016

P.C. :-

1. The applicant is an accused in Crime No.747 of 2015 registered with Kranti Chowk Police Station, Aurangabad on complaint of respondent No.2 alleging offences punishable under section 420 of the Indian Penal Code. The complainant stated that her husband initially agreed to sell a piece of land together with stone crushing machine to applicant on 29.05.2009. On that day he paid Rs.51,000/-. Thereafter, on 15.06.2009, the applicant handed over a sum of Rs.5,49,000/- to her husband and got executed registered sale-deed. The applicant then agreed to give remaining amount of Rs.13 lakhs within six months. But the amount was not paid.

In the meantime, respondent No.2's husband died in September, 2009. Respondent No.2 has still not received entire consideration. Therefore, on 15.01.2015, present complaint is filed with police.

2. We do not see any element of cheating in the narration. Therefore, the complaint deserves to be quashed. Respondent No.2 deserves a better legal advice to initiate proceeding in Civil Court for recovery of remaining amount at appropriate time. The petitioner may take such other action that is possible in law.

3. The Criminal Application stands dismissed.

[V.L.ACHLIYA,J.]

[A.V.NIRGUDE,J.]