

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

CRIMINAL APPLICATION (ABA) NO.536 OF 2016

(Datta s/o Ganpat Dalvi Vs. The State of Maharashtra)

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

Court's or Judge's orders

Shri Mahesh Rai, Advocate for the applicant.
Shri S. D. Shirpurkar, A.P.P. for the State.

CORAM : S. B. SHUKRE, J.

DATED : SEPTEMBER 16, 2016

Heard.

The allegation is that this applicant, by giving false promise of obtaining sanction for digging of well under the Government Scheme, induced several persons to pay him different amounts ranging from Rs.15,000/- to Rs.20,000/- and then did not do anything.

According to the learned Counsel for the applicant, the complaint filed against this applicant by some of the villagers is motivated and the brain behind levelling of false allegation against the applicant is of one Deorao Tayde, who is already facing the charge of outraging the modesty of the applicant's wife and offence punishable under Section 354 I.P.C. has been registered against him. He submits that it is this Deorao Tayde whose name has also figured in the complaint, who has instigated the other

villagers into making false allegations against this applicant.

Learned A.P.P. for the State submits that whatever has been contended on behalf of the applicant is his defence and, therefore, at the time of consideration of bail application, it cannot be considered.

I have gone through the case-diary including the report filed against this applicant. There is no doubt about the fact that the villagers have stated that certain amounts were paid to this applicant in the presence of Deorao Tayde. The report also shows that there were other occasions also when this applicant had nagged the villagers by repeatedly making demand for payment of different amounts in order to obtain sanction for digging wells. During those occasions, Deorao Tayade was not seen to be present or at least the villagers have not stated that he was present. Then, the villagers, who complained that this applicant has made false representation to them and induced them to part with certain sums of money, do not have any enmity with this applicant and, therefore, a question would be, as to why, just to help Deorao achieve his so called evil design, so many villagers would go against this applicant. Though, this is not the right time to answer the question, the question itself requires the applicant to take a stand on this aspect of the matter, which he has not. Therefore, as

rightly submitted by the learned A.P.P., whatever has been contended on behalf of the applicant is nothing but his defence, which would have to be decided on the merits of the matter.

Learned A.P.P. has submitted that in the Government Scheme, the wells are to be dug and constructed free of costs and knowing this well, this applicant has made false representations to the gullible farmers that they would be required to spend various amounts ranging from Rs.15,000/- to Rs.20,000/- for getting the wells dug and constructed in their respective fields. This contention of the prosecution has not been shown to be prima facie incorrect.

The learned Counsel for the applicant states that the representation was in relation to obtaining of sanction. I find that prima facie the contention cannot be accepted as the scheme provided for free wells and so there is no question of making a beneficiary spend some money even for obtaining of the sanction.

Learned Counsel for the applicant submits that custodial interrogation of the applicant in any case is not required as the settled law would tell us, just for recovery of money, custody should not be granted.

The proposition of law can be accepted with a rider that in a given set of facts and circumstances, custodial

interrogation for effecting recovery of articles, whatever be their nature, may also be justified. But, the question is not only of custodial interrogation but also the misuse of liberty and the need for further investigation. Any grant of anticipatory bail in a case like thisn may hamper further investigation. Then, there is also a possibility of even more villagers having been prima facie cheated by the applicant. The possibility of the applicant misusing or influencing the prosecution witnesses is also reasonably scan as there is prima facie evidence available on record showing that this applicant used to contact the affected villagers frequently. In the circumstances, the application deserves to be rejected and is rejected accordingly.

JUDGE

CERTIFICATE

“I certify that this order uploaded is a true and correct copy of original signed order.”

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