

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO. 672/2015

(Dr.Suchitkumar s/o Diwan Ramteke vs. The State of Maharashtra and others)

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

Court's or Judge's order

.....
Mr. S.A.Chaudhari, Advocate for applicant
Mr. V.A.Thakre, APP for Respondent no.1
Mr Sudhir Loney, Adv.for Respondent no.2.

CORAM : **B.R. GAVAI &**
Mrs. SWAPNA JOSHI, JJ.

DATED : **5th April, 2016**

1. By way of this Application, the applicant seeks quashing and setting aside the First Information Report (FIR) No. 195/ 2015 for offence punishable under Sections 420 read with Section 34 of the Indian Penal Code.

2. The respondent no.2 has lodged the FIR alleging therein that that the accused persons named in the FIR who were the Directors of Matrix Infra State private Limited, published advertisements in the newspapers stating therein that said matrix Infra State Pvt.Ltd. was to implement various residential, commercial and township schemes at Nagpur, Amravati and Chadnrapur. It is also stated in the FIR that various properties shows were also arranged by the accused.

3. It is stated in the FIR that in one of such property shows

conducted at Hindustan Hotel, Amravati, the first informant was present. The first informant thereafter went to the office of the Matrix Royal Residency where a site at Wanadongri was shown to the first informant. It was also informed that all the sanctions from the competency authorities were received for the said scheme. The first informant thereafter has further stated that he has paid an amount of Rs.6,76,250/-. It is specifically averred that an agreement in question is signed by the present applicant.

4. It is further stated in the FIR that thereafter the first informant visited the site on various occasions and found that nothing was done. It is further stated that the accused persons were not responding to the query made by the first informant. Suspecting that there were some foul play, the first informant conducted an enquiry wherein it was revealed that the accused persons duped as many as 72 gullible persons and an amount of Rs.2,29,06,569/- was received from those 72 persons.

5. The FIR is sought to be quashed by the learned counsel for the applicant on the ground that the dispute is purely civil in nature and, therefore, the criminal proceeding should not be quashed.

6. By now, the law for quashing the criminal proceedings by exercising the powers u/s 482 Cr.PC. is very well settled. The Hon'ble Apex Court in the case of *State of Haryana vs. Bhajan Lal and others : 1992. Supp (1) SCC 335*, has held that one of the grounds on which the FIR could be quashed is that when the allegations in the FIR taken at its face value

do not disclose the ingredients of an offence.

7. Perusal of the present FIR would reveal that the said FIR makes out ingredients of the offence of cheating. Not only that, the Investigating Officer has also filed his reply. In the reply, he states that he had recorded statements of 25 depositors including the complainant. It is further stated that during investigation, the Investigating officer has also collected 25 agreements which are signed by the present applicant. The investigation also shows that the scheme which was promised to be constructed on the land, which was not owned by the accused persons. The statement of the owners of the agricultural land is also recorded by the investigating agency.

9. Perusal of the reply would further reveal that during investigation it has transpired that the offices of Matrix Infra Estate Pvt.Ltd. and Matrix Royal Residency are run from the same premises. The investigation reveals that the cheques were presented in the bank account maintained by Matrix Royal Residency and thereafter the said amount is withdrawn in the name of Matrix Infra Estate Pvt.ltd.

10. It could thus be seen that the investigation,*prima facie*, reveals that though the applicant was not the owner of the land, a picture is painted before the unsuspecting customers that a scheme of residential house etc. is being implemented by him and other accused. On the said assurance the unsuspecting customers have paid huge amounts. The said amount is

swallowed by the applicant, who is the signatory to the agreement. In any case, the investigation is still in progress.

11. Now a days, there is exponential rise in the economic offences, poor citizens are given false promises and the unsuspecting citizens fall prey to the said allurements and promises and part with their hard earned money. After receiving the amount, the persons involved in such modalities swallow the said amount.

12. In that view of the matter, we do not find that a case is made out for interference. The Application is *sans* merit, deserves dismissal, which we direct.

JUDGE

JUDGE

sahare