

8IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPA) NO.164 OF 2017

Shri Shailesh s/o Gulabrao Gaikwad

..vs..

Shri Shridhar s/o Janbaji Bagde and

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

Court's or Judge's Order

Shri C.F. Bhagwani, Counsel for the applicant.

CORAM : V.M. DESHPANDE, J.

DATED : AUGUST 2, 2017.

Heard learned counsel Shri C.F. Bhagwani for the
applicant.

The present application challenges order passed
by learned Judicial Magistrate First Class, Court No.7, Nagpur
on 9.1.2017 below Exhibit-1 in R.C.C. No.4018 of 2015 whereby
learned Magistrate discharged non-applicant No.1 for the
offences punishable under Sections 420, 468, and 471 of the
Indian Penal Code, 1860. Before ordering discharge, learned
Magistrate minutely scrutinized evidences of the present
applicant/complainant and two witnesses namely Estate
Manager of NHADB Shri Nandkishor Deoraoji Kanchanrao and
Member of Panchsheel Gruh Nirman Society Madhukar
Ramchandra Ramteke.

Perusal of the impugned order shows that learned Magistrate, after evaluation of the evidences, rightly found that CW1 Estate Manager of NHADB Shri Nandkishor Deoraoji Kanchanrao enquired into the complaint filed by the present applicant and gave a specific finding that at the time of allotment of flat by NHADB to non-applicant No.1, he was not having any house property or plot in Nagpur Municipal Corporation area. According to the complaint, non-applicant No.1 has sworn false affidavit before NHADB wherein he has averred that he has no house or accommodation. According to the applicant/complainant, non-applicant No.1 was possessing plot No.56 allotted by Panchsheel Gruh Nirman Society. However, the applicant/complainant himself has stated in the complaint that allotment was cancelled and it was allotted to deceased, father of the complainant. The complaint is silent that after cancellation of plot No.56 on 12.9.1972, non-applicant No.1 was re-allotted of the said plot.

After hearing learned counsel for the applicant, I am of the opinion that no error was committed by learned Magistrate while discharging non-applicant No.1. The criminal application is rejected.

JUDGE

!! BRW !!

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