

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

CRIMINAL APPLICATION (APPP) NO.880/2017
IN
CRIMINAL APPLICATION NO.(ABA) NO.11/2017

Suryakant Vitthalrao Motghare

..Vs..

State of Maharashtra, through P.S.O. Police Station Rana Pratap Nagar (Crime Branch), Nagpur

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

Court's or Judge's orders

Shri R.H. Rawlani, Adv. for the applicant.
Shri N.R. Patil, A.P.P. for the respondent / State.

CORAM : Z.A.HAQ, J.

DATE : 13.6.2017.

The prayer made in this application that Nirmal Ujwal Credit Co-operative Society Limited, Nagpur be permitted to raise objection to the Criminal Application (ABA) No.11/2017 cannot be granted. The application is **dismissed**.

CRIMINAL APPLICATION NO.(ABA) NO.11/2017

The applicant, apprehending arrest in crime registered against him for offence punishable under Section 406, 420 read with Section 34 of the Indian Penal Code seeks pre-arrest bail. The crime is registered on the complaint lodged by Suresh Gaikwad alleging that as per the agreement between the present applicant (Builder) and the complainant, the present applicant

agreed to sell 3 flats to the complainant for Rs.1 Crore 20 Lakhs out of which the complainant had paid Rs.1 Crore and 16 Lakhs, however, the applicant avoided to execute the sale deed on one or the other pretext and then sold the 3 flats to M/s. Global Associates and the act of the applicant amounts to cheating.

According to the applicant after the agreement between the applicant and the complainant, the applicant floated another scheme with commercial spaces and the complainant opted for commercial space instead of three flats which he agreed to purchase earlier and as per the option of the complainant, the applicant marked commercial space for the complainant. To support the above submissions, the applicant relies on notice issued by the applicant to the complainant on 28th July, 2014 in which it is stated that as per the complainant's demand the commercial cubicles of another building being constructed by the applicant are kept for the complainant. The learned A.P.P. has not been able to point out that after the receipt of this notice by the complainant he has taken any action in the matter or has denied the claim made by the applicant in this notice. The learned A.P.P. has pointed out that the envelope containing the notice was returned to the applicant. Be that as it may, the applicant entered into an agreement with M/s. Global Associates on 19th November, 2014 and executed the sale deed of the flats in question in favour of M/s. Global Associates on 16th January, 2016. The complaint is lodged on 3rd

December, 2016.

The applicant has filed an affidavit stating that he is not involved in any other crime / offence. By an interim order dated 6th January, 2017 the applicant is granted interim protection. It is not the case of the investigating agency that the applicant has misused the interim protection granted by this Court. The investigating agency has not been able to point out that custody of the applicant is required for further investigation.

Considering the facts of the case, I am of the view that the interim order granted by this Court on 6th January, 2017 is required to be confirmed. The interim order is confirmed and the application is **allowed** accordingly.

JUDGE

Tambaskar.