

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1118 OF 2018

- 1) Shahid Shafiq Bagwan,
Age 29 years, Occupation Fruit Seller,
R/o Kaisar Colony, Lane No.5,
Aurangabad Dist. Aurangabad.
- 2) Aminabanu w/o Shafiq Chaudhary
Bagwan,
Age 49 years, Occupation Household,
R/o Jinshi Aurangabad
Tq. Dist. Aurangabad. ...Applicants

Versus

- 1) The State of Maharashtra,
Through Police Station Jinshi
Aurangabad Tq. Dist. Aurangabad.
- 2) Naushaba Mushraf Hussain,
Age 35 years, Occupation Business,
R/o 58 / 110, A. N. Azad Nagar Colony,
Khajuri, Varanasi. ...Respondents

Ms. Vaishali A. Shinde (More), Advocate for applicants.
Ms. D. S. Jape, Addl. Public Prosecutor, for respondent No.1/
State.
Mr. U. M. Maske Patil, Advocate holding for Mr. R. R. Mane,
Advocate for respondent No.2.

**CORAM : T. V. NALAWADE &
SMT.VIBHA KANKANWADI. JJ.
DATE : 24-09-2018.**

ORAL JUDGMENT : (Per T. V. NALAWADE, J.)

1. Rule. Rule made returnable forthwith. By consent heard both
the sides for final disposal.

2. The proceeding is filed under Section 482 of Code of Criminal Procedure for the relief of quashing of First Information Report No. 41 of 2017 registered in Jinci Police Station, Aurangabad for the offences punishable under Section 420, 417, 418, 323, 506 read with 34 of the Indian Penal Code.

3. During the course of arguments the learned counsels of the applicants and first-informant submitted that the parties have settled their dispute. In the past the consent terms were filed on record. As it was one promise to give some amount in future this Court refused to place reliance on consent terms. Today new consent terms came to be filed on record which show that, the entire amount due to the first informant is being paid. Two demand drafts of total amount of Rs.2.50 Lakh were handed over to the first informant. This Court has carefully gone through the contents of FIR. Allegations are made that, goods like clothes were delivered but the price of it was not paid.

4. Learned Addl. Public Prosecutor submitted that, the applicant is absconding and so relief may not be granted.

5. In view of the nature of dispute which was personal nature and there was also contract and as now amount is paid and first informant has no intention to give evidence against the applicant,

this Court holds that nothing can be achieved by filing the case and by asking the applicant to face trial.

6. In the result criminal application is allowed. Relief is granted in terms of prayer Clause 'B'. Rule is made absolute in those terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.