

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 2539 OF 2016

1. Rajendra S/o Babulal Agrawal,
Age: 54 Years, Occu: Business,
2. Ayush S/o Rajendra Agrawal,
Age: 23 years, Occu: Business,
3. Ankush S/o Rajendra Agrawal,
Age: 27 Years, Occu: Business,
4. Anup S/o Rajendra Agrawal,
Age: 25 Years, Occu: Business,
5. Nirmala W/o Rajendra Agrawal,
Age: 50 Years, Occu: Housewife,
6. Rani (Richa) W/o Ankush Agrawal,
Age: 25 Years, Occu: Housewife,
7. Nidhi W/o Anup Agrawal,
Age: 22 Years, Occu: Housewife,

All R/o : 3, Prakash Nagar,
Bramhakundi Road, Dhar,
Taluka and District Dhar.
(Madhya Pradesh)

... **APPLICANTS**

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
City Police Station, Parli Vaijanath,
Taluka Parli Vaijanath,
District Beed.

2. Kantaprasad S/o Balaprasad Zawar,
Age: 37 Years, Occu: Business,
R/o: M/s. K.B. Traders, Mondha Market,
Parli Vaijanath, Taluka Parli Vaijanath,
District Beed.

... **RESPONDENTS**

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Mr. A. B. Kharosekar, Advocate for Petitioners.

Mr. R. V. Dasalkar, APP for Respondent No.1 / State.

Mr. Ruchir Wani, h/f Mr. A. S. Bajaj, Advocate for Respondent No.2.

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CORAM : **T. V. NALAWADE &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 26th October, 2018.

JUDGMENT: (Per T. V. Nalawade, J.)

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

2 Crime is registered on the basis of report given by Respondent No.2, Kantaprasad Zawar, for the offences punishable under Sections 420, 409, 406 and 120-B of the Indian Penal Code, in City Police Station, Parli Vaijanath, District Beed. Relief for quashing of this FIR is claimed. During arguments, when this Court expressed that this Court is not inclined to grant relief to Applicant Nos.1 to 3, the

learned counsel for these Applicants submitted, on instructions, that he wants to withdraw their application. The proceeding of Applicant Nos.4 to 7 was only pressed.

3 The first informant is a trader and he is in the business of selling food grains including Soybean. He has a shop at Mondha Market, Parli by name "K. B. Traders". He has made allegations that on 27th October, 2015, Accused persons like Rajendra Agrawal and his sons Ankush Agrawal and Ayush Agrawal came to his shop and they represented to him that they wanted to purchase Soybean for Balaji Oversees, M/s. Annapurna Traders and Ayush Corporation from Madhya Pradesh. It is contended that these three persons, Applicant Nos.1 to 3 represented that they were doing the business together with lady members of their family. Promise was given to credit amount of purchase in the account of the first informant after supply of food grains.

4 Due to aforesaid representation made by Applicant Nos.1 to 3, the first informant supplied 3685 quintal Soybean between the period 29th September, 2015 and 27th November, 2015 and the value of Soybean was Rs.1,45,35,259/-. By different trucks, Soybean was

sent to aforesaid three concerns of the Applicants. It is contended that as the price, the amount of Rs.69,95,210/- was credited by the Applicants in his account, but the remaining amount of Rs.75,40,049/- was not paid. It is contended that he requested many times the Applicants to make payment, but they avoided to make the payment under one or other pretext.

5 In FIR, one specific allegation is made against the lady members that when the first informant went to the place of Applicant Nos.1 to 3, the lady members rushed at him and gave threats.

6 There are no specific allegations against the lady members and also Applicant No.4. In view of these circumstances, this Court had asked the learned counsel for first informant to show some record on the basis of which, prosecution can be allowed as against the lady members. On 19th October, 2018, it was made clear that if there is no such record, cost will be imposed on the first informant for falsely implicating the lady members. Time was given to show the record. Today also, the learned counsel for first informant could not show such record. In FIR, there are no allegations of making false representation by the lady members and also by

Applicant No.4. Papers of investigation do not show any material on the basis of which case can be filed as against Applicant Nos.4 to 7. This Court holds that relief needs to be granted to Applicant Nos.4 to 7 and the first informant needs to be made to pay cost of Rs.30,000/- (Rs.10,000/- to each lady member). In the result, the following order is passed:

ORDER

- I. The proceeding of Applicant Nos.4 to 7 is allowed.
- II. Relief is granted to Applicant Nos.4 to 7 in terms of prayer clause (B).
- III. The proceeding of Applicant Nos.1 to 3 is disposed of as withdrawn.
- IV. The first informant is to pay costs of Rs.30,000/- to Applicant Nos.5, 6 and 7 and each of them is entitled to get Rs.10,000/-. The amount is to be deposited within one month from day.
- V. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T. V. NALAWADE, J.]

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