

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Application No.5236 of 2010

* Anand Satishkumar Surana,
Age 21 years,
Occupation : Student,
R/o 24, Nutan Housing Society,
Nutan Colony, Aurangabad. .. **Applicant.**

Versus

- 1) The State of Maharashtra
Through Police Inspector,
CIDCO Police Station,
Aurangabad,
District Aurangabad.
- 2) Dr. Surendra Ramkisan Jaiswal,
Age 58 years,
Occupation : Business,
R/o At Jaiswal Hospital,
N-9, T.V. Centre Road,
CIDCO, Aurangabad. .. **Respondents.**

Shri. P.B. Shirsath, Advocate, for applicant.

Shri. M.M. Nerlikar, Additional Public Prosecutor, for
respondent No.1.

**Coram: T.V. NALAWADE &
K.L. WADANE, JJ.**

Date: 27 JULY 2018

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

1) The proceeding is filed under section 482 of the Code of Criminal Procedure for the relief of quashing of the F.I.R. and also the proceeding of R.C.C. No.1550/2012 filed by police after making investigation of offences punishable under sections 420, 467, 468, 471 read with 34 of the Indian Penal Code. The case is pending before the Judicial Magistrate, First Class, Aurangabad. Investigation was made on the basis of direction given by the learned Judicial Magistrate, First Class Aurangabad in Misc. Application No.867/2010. The complaint was filed by respondent No.2. Dr. Surendra Jaiswal against the applicant that in January 2010 even when he had not given consent or no objection, present applicant had applied for taking land-line telephone connection. It is contended that one letter of no objection shown to be issued by A.R. Jaiswal was produced for taking land-line phone and on that basis land-line telephone was taken by the present applicant in property No.162, N-9 CIDCO. It is contended that only to grab the property such false record was prepared. It is also contended that in the past, the

applicant had approached the complainant for getting the property on lease basis but they could not reach to any agreement and so there was no agreement executed in favour of the present applicant but the land-line telephone connection was taken by the present applicant by using the aforesaid *modus operandi*.

2) The learned counsel for the applicant took this Court through copy of Rent Suit No.43/2010 which was filed by the institution of the parents of the present applicant against the complainant and one more person. The suit was filed for the relief of injunction. Copy of written statement filed by the first informant and other defendants is produced on record and it shows that some portion of the building was given by the first informant for running Nursing College and there was agreement to give deposit. It is contended that deposit of amount of Rs. Ten lakh was not given and only amount of Rs. Two lakh was paid. It is contended that the under ground portion was given on rent basis for Nursing College. The defence taken in the written statement shows that the first informant is not disputing that possession of some portion

of the building was given to the institution of the present applicant. There is possibility that there was no written document of lease. If these circumstances are considered along with the allegations made in the F.I.R. it can be said that as a pressure tactics F.I.R. was given. There is no reason to go into merits of the allegation of forgery in respect of no objection certificate in view of the aforesaid circumstances. It cannot be said that there was fraudulent or dishonest intention. No loss is caused to the first informant due to aforesaid circumstances. Thus relief needs to be given to the present applicant to avoid misuse of process of law. In the result, the application is allowed. Relief is granted in terms of prayer clause (bb). Rule is made absolute in the aforesaid terms.

Sd/-
(K.L. WADANE, J.)

Sd/-
(T.V. NALAWADE, J.)

rs1