

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

CRIMINAL APPLICATION (APL) NO.117/2018

Mina Sanjay Shaligram and others

...Versus...

State of Maharashtra, Through its Police Station Officer, Police Station,
Hudkeshwar, Nagpur

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

Court's or Judge's orders

Shri M.N. Ali and Shri Hemant Jha, Counsel for applicant nos.1 to 6
Shri A.S. Mardikar, Sr. Counsel with Shri S.G. Joshi Counsel for applicant no.7
Mrs. M.A. Barabde, APP for non-applicant

**CORAM : SMT. VASANTI A NAIK AND
ARUN D. UPADHYE, JJ.**

DATE : 14/02/2018

By this criminal application, the applicants seek the quashing and setting aside of the First Information Report (F.I.R.) registered against the applicant nos.1 to 6 for the offences punishable under Sections 420, 468, 471, 120-B of the Penal Code.

The applicant nos.1 to 6 had agreed to sell their property to the applicant no.7 and in pursuance of the same a sum of Rs.1,00,000/- was paid by the applicant no.7 to the applicant nos.1 to 6 towards earnest amount. It appears that the transaction did not materialize and since the applicant nos.1 to 6 were not ready to refund the amount paid by the applicant no.7 to them from time to time, in a fit of rage the applicant no.7 had lodged a complaint against the applicant nos.1 to 6 under Section 420, 468, 471 and 120-B of the Penal Code. On the basis of the

said complaint, an offence was registered against the applicant nos.1 to 6.

All the applicants are acquainted with each other. The applicant nos.1 to 6 on one hand and the applicant no.7 on the other have amicably settled the dispute and the applicant nos.1 to 6 have agreed to return the sum of Rs.23,00,000/- that was paid by the applicant no.7 to the applicant nos.1 to 6 from time to time including the earnest amount to the applicant no.7. Since the parties have amicably settled the dispute they have filed this application with a prayer for quashing and setting aside the F.I.R. registered against the applicant nos.1 to 6.

The applicants are personally present in the Court today. The applicants are identified by their respective Counsel. All the applicants have stated that they would abide by the terms mentioned in paragraph nos.6 to 8 of the criminal application. The applicant no.7 has stated that he is not desirous of prosecuting the case against the applicant nos.1 to 6 as their dispute is amicably settled. The applicant no.7 has requested this Court that the F.I.R. registered against the applicant nos.1 to 6 may be quashed and set aside.

We have perused the copy of the complaint lodged by the applicant no.7. It appears from the allegations made in the said complaint that the dispute is purely of civil nature. In the circumstances of the case, since the parties have settled the matter amicably, it would be necessary to quash and set aside the F.I.R. registered against the applicant nos.1 to 6 as the continuation of the proceedings against the applicant nos.1 to 6 on the basis of the said report would result in the abuse of the process of Court. Since the applicant no.7 is not desirous of

prosecuting the matter against the applicant nos.1 to 6, it is unlikely that the prosecution would result in the conviction of the said applicants. Hence, with a view to secure the ends of justice and to prevent the abuse of the process of Court, it would be necessary to quash and set aside the F.I.R.

Hence, for the reasons aforesaid, the criminal application is allowed. The F.I.R. registered against the applicant nos.1 to 6 for the offences punishable under Sections 420, 468, 471, 120-B of the Penal Code is hereby quashed and set aside. Order accordingly.

JUDGE

JUDGE

Wadkar