

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

CRIMINAL APPLICATION (APPA) NO.1041/2018

Manikrao s/o Vitthalrao Dahapute and anr

..VS..

Tukaram Sakharam Pachkor and ors

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

Court's or Judge's Order

.....  
Shri S.A. Lambat, Counsel for the applicants.

**CORAM : V.M. DESHPANDE, J.**

**DATED : DECEMBER 11, 2018.**

1. Heard learned counsel Shri S.A. Lambat for the applicants.
2. The present application is directed against judgment and order of acquittal dated 10.8.2018 passed by learned Judicial Magistrate First Class, Darwha in Regular Criminal Case No.75/2006 whereby the Court below acquitted the accused, the non-applicants herein of offence punishable under Section 420 read with Section 34 of the Indian Penal Code.
3. The applicants along with 3 others filed a private complaint before the Court below for offence punishable under Section 420 read with Section 34 of the Indian Penal Code. According to the complaint, a high school by name Pratap High School is run by Vasant Gram Sanstha and students namely Sujata,

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Shital, Nilesh, and Yogesh went to the high school for leaving certificates in order to take admission for further education. According to the complaint, the accused persons told them that the school has got sanction for conducting Classes 11<sup>th</sup> and 12<sup>th</sup> Stds. and, therefore, the students need not to go elsewhere for further education. On believing the accused, they enrolled themselves in 11<sup>th</sup> Std. along with other 30 to 35 students. The school recovered Rs.200/- as admission fee from each student. It was further complained that after taking admission in academic year 2003-2004, classes of students were conducted for whole academic year. Even, annual exam was also conducted by taking exam fee Rs.60/-. Thereafter, when the aforesaid students namely complainant Nos.3 to 5 went for result of the annual examination, they were given mark sheets of 10<sup>th</sup> Std.. At that time, it was informed that the school failed to get sanction for running classes 11<sup>th</sup> and 12<sup>th</sup> Stds. and, therefore, they can take admission elsewhere. According to the complaint, thus the accused persons deceived the students.

4. After charge was framed, 3 witnesses were examined i.e. complainant No.1 Manikarao as CW No.1 who is applicant No.1 before this Court; complainant No.4 Nilesh as CW No.2, and Rajusingh as CW No.3. The Court below after appreciating their evidence

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dismissed the complainant and acquitted the accused.

5. Though the complaint was presented by 5 complainants, the present appeal is filed by complainant Nos.1 and 2. Remaining 3 complainants chose not to prefer any appeal before this Court.

6. Insofar as complainant No.1 is concerned, he admitted in his cross examination that no student from his family was enrolled at the relevant time in school and he himself never went to school for taking transfer certificate with any of students or their guardians. Further, the Court below found that though it was the case of the complainants that admission fees at the rate of Rs.200/- were taken from each student as well as Rs.60/- by way of examination fee, no documentary evidence was filed on record to show that the accused has collected the fees. The evidence of the Court below which, in my view, is correctly found short to fulfill ingredients of Section 420 of the Indian Penal Code. Hence, the criminal application is rejected and disposed of accordingly.

JUDGE

!! BRW !!

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