

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 215 OF 2019

1. Satish s/o. Gangaram Jaikar,
Age 54 years, Occu. Business,
R/o. H.No.1026, Gavlipura,
Cantonment, Aurangabad.
2. Narendra s/o. Rangaswami Naidu,
Age 63 years, Occu. Business,
R/o. H.No.1223, Gavlipura,
Cantonment, Aurangabad.

....Applicants.

Versus

1. The State of Maharashtra,
Through Police Station,
(Copy to be served on Govt. Pleader,
High Court of Judicature of Bombay,
Bench at Aurangabad).
2. Dilip s/o. Maniklal Jaiswal,
Age 60 years, Occu. Service,
R/o. H.No. 984, Gawlipura,
Cantonment, Aurangabad.

....Respondents.

Mr. A.S. Barlota, Advocate for applicants.

Mr. D.R. Kale, APP for respondent No. 1/State.

Mr. J.V. Deshpande, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
K.K. SONAWANE, JJ.**

DATED : 21/06/2019.

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 Criminal Procedure Code for relief of quashing of F.I.R. No. 394/2018 registered with Cantonment (Chavani) Police Station, Aurangabad for offences punishable under sections 420, 463, 464, 471, 120-B and 34 etc. of Indian Penal Code. The crime is registered on the basis of report given by respondent No. 2 Dilip Jaiswal. Present applicants are tenants in shop of respondent No. 2. Respondent No. 2 has filed proceeding before the Rent Controller under Hyderabad Rent Control Act for eviction of the applicants from the shop.

3) The contention of the respondent No. 2 is that in the year 1993 the predecessor of the applicant no. 1 namely Gangaram had filed proceeding before the Rent Controller for taking connection of electricity in the rented premises, but the said proceeding was dismissed. It is contended that in the year 2002 when the first informant learnt that application was directly moved to Electricity Board by applicant No. 1 for getting connection, he had raised objection to it. It is contended that after such objection, applicant No. 1 had taken supply of electricity from adjacent shop and then first informant had taken objection to that activity also. It is contended that when he collected relevant record from the Board and he made inquiry, he realised that his brother Shantilal had not given such no objection certificate. Thus, according to him, by

producing false no objection certificate of the landlord, applicant No. 1 has taken connection of electricity and thereby he committed the offence of forgery, cheating etc.

4) It is not disputed that applicant no. 1 had obtained the connection of electricity. The submissions made show that applicant No. 1 is in possession of the shop and he is running a saloon shop. It is clear that he needs electricity for doing this business, but the first informant was not giving no objection certificate. He took every step to see that applicant No. 1 does not get supply of electricity for his business. It is not the case of applicant No. 1 that as per the agreement between him and landlord, the landlord is bound to supply the electricity. Further, the Electricity Board seeks no objection of landlord only to verify that the possession of the tenant is authorised. There is no other purpose behind obtaining such no objection from landlord. The landlord cannot prevent the tenant from availing such facility at his own cost.

5) The aforesaid circumstances need to be kept in mind and then the definition of forgery, cheating etc. given in IPC needs to be seen. It cannot be said in the present matter that false record if any created has caused any harm to the property or person of the first informant. In view of this circumstance, it cannot be said that

applicant No. 1 or his associate committed aforesaid offences by taking connection of electricity on the basis of such no objection certificate. This Court holds that it will be misuse of process of law if the applicants are directed to face the trial for aforesaid offences. In the result, the application is allowed. The relief is granted to the applicants in terms of prayer clause 'B'. Rule is made absolute in those terms.

[K.K. SONAWANE, J.]

[T.V. NALAWADE, J.]

ssc/