

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 369 OF 2020

Surendramani Devatadin Tripathi

...Applicant

Versus

Uttam Chingaji Ingale & Anr.

...Respondents

.....

Mr.Vikas Kolekar for the Applicant.

Mr.J.P. Yagnik, APP, for the Respondent -State.

.....

**CORAM : S.S. SHINDE &
V.G.BISHT, JJ.**

DATE : 18TH MARCH, 2020

P.C.:

1. Heard learned Counsel appearing for the applicant.
2. He invites our attention to the averments in the application and grounds taken therein so also additional documents placed on record and the order passed by Division Bench (Coram:A.S.Oka and Riyaz I. Chagla, JJ.) of this Court on 24th April, 2018 and submits that the informant has no right whatsoever and he is encroacher. It is submitted that the applicant has purchased the land. There is

considerable delay in lodging the first information report (FIR) inasmuch as the transaction had taken place in the year 2014 and FIR is belatedly registered in the year 2020. Hence, he prays that the application may be allowed.

3. On the other hand, learned APP invites our attention to the allegations in the FIR and submits that *prima facie* alleged offences are disclosed therefore, needs further investigation. He further submits that this Court may not enter into appreciation of the documents placed on record when there is only prayer of quashing the FIR. He further submits that once an alleged offences are disclosed in that case the matter should be left to the concerned investigating officer for further investigation.

4. We have given due consideration to the rival submissions.

5. With the assistance of learned Counsel appearing for the applicant and learned APP, we have carefully perused the averments in the application and grounds taken therein and in particular, the allegations made in the FIR.

6. Upon perusal of the allegation in the FIR, an ingredient of alleged offences are attracted and consequently alleged offences are disclosed hence those needs further investigation. At the stage when the prayer is made for quashing the FIR by invoking Section 482 of the Code of Criminal Procedure, the High Court is supposed to look into the allegations made in the FIR and find out, whether an ingredient of alleged offences are disclosed or otherwise, and if answer is yes, then leave the matter to the investigating officer for further investigation.

7. At the stage when the prayer is made for quashing the FIR, this Court is not supposed to enter into appreciation of the documents or to find out the evidentiary value of the documents placed on record.

8. For the aforesaid reasons and since the alleged offences are disclosed, we are not inclined to consider the prayer of the applicant for quashing the FIR. Hence, application stands rejected.

9. The observations made hereinabove are *prima facie* in nature and confined to the adjudication of the present application. The

rejection of this application shall not be construed as an impediment to the applicant to apply under Section 438 of the Code of Criminal Procedure for anticipatory bail or in the event the investigating officer decides to file the chargesheet, in that case for quashing the chargesheet or for discharge.

(V.G.BISHT, J.)

(S.S. SHINDE, J.)