

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

CRIMINAL APPLICATION (APL) NO. 246 OF 2014

1. Vinod S/o. Arjundas Sahani,
Aged about 60 years, Occ.:Business,
 2. Ankush S/o. Vinod Sahani,
Aged about 30 yrs., Occ.: Business,
 3. Rohit S/o. Ramgopal Sahani,
Aged about 23 years, Occ.: Private,
- All R/o. Plot No.12-A, Buty Layout,
Raj Nagar, Behind Sitaram Maharaj Mandir,
Katol Road, Nagpur.

.... **APPLICANTS.**

// VERSUS //

1. The State of Maharashtra,
through P.S.O., P.S., Wadi,
Distt. Nagpur.
2. Bharat S/o. Shriram Ganar,
Aged about 36 years, Occ. Secretary,
R/o. Servants of Nagpur Homeless
Co-operative Housing Society,
Room No.12, NIT Market, Ajni Square,
Wardha Road, Nagpur.

.... **NON-APPLICANTS.**

Shri R.M.Daga, Advocate for Applicants.
Shri S.J.Kadu, A.P.P. for Non-applicant No.1/State.
Shri Atharva Manohar, Adv. h/f. Shri A.A.Naik, Adv. for Non-applicant No.2.

CORAM : Z.A.HAQ AND AMIT B. BORKAR, JJ.
DATED : NOVEMBER 02, 2020.

ORAL JUDGMENT : (Per : Amit B. Borkar, J.)

1. Heard.

2. This is an application filed by the applicants for quashing of First Information Report registered at Police Station, Wadi, Nagpur vide Crime No.28 of 2014 for the offences punishable under Sections 420, 468, 471, 448 read with Section 34 of the Indian Penal Code.

3. This Court on 8th October 2014 issued Rule and granted interim relief in terms of prayer clause (b), thereby directing not to file charge-sheet arising out of Crime No.28 of 2014.

4. The First Information Report, which is impugned in the present application, is filed with the allegation that the applicant fabricated the documents to get the Sale-Deed of the part of the land which is allegedly owned by the non-applicant No.2 executed. The applicant has challenged the said First Information Report on the ground that filing of the First Information Report is abuse of process of law.

5. Pending the present application, the non-applicant No.2 filed Regular Criminal Complaint No.948 of 2015 with the same allegations which are there in the First Information Report which is questioned in the present

application. By order dated 13th August 2015 Police Station, Wadi was directed to file report under Section 202 of the Code of Criminal Procedure on or before 22nd September 2015. On 22nd September 2015 the Senior Inspector of Police Station, Wadi submitted report with Judicial Magistrate First Class, Court No.2, Nagpur. In the said report it is stated that there is no evidence in relation to the allegation that the applicants have cheated the non-applicant No.2. It is also stated in the report that the sale-deed in question is in fact signed by father of the non-applicant No.2.

6. After considering the report dated 22nd September 2015 the learned Judicial Magistrate First Class Court No.2, Nagpur on 18th January 2020 dismissed Regular Criminal Complaint No. 948 of 2015 for non-prosecution.

7. Having considered the report dated 22nd September 2015 filed before the Judicial Magistrate First Class and the order dated 18th January 2020 dismissing Criminal Complaint No. 948 of 2015 which contained similar allegations which are there in the present First Information Report, we are of the opinion that continuance of the proceedings in pursuance of the F.I.R. No.28 of 2014 would amount to abuse of process of law. Therefore, the applicant has made out the case for quashing the First Information Report in exercise of powers conferred by Section 482 of the Code of Criminal Procedure.

8. Therefore, we pass the following order:

i) Criminal Application No. 246 of 2014 is **allowed**.

ii) First Information Report No.28 of 2014, registered against the applicants with the non-applicant No.1-Police Station for the offences punishable under Sections 420, 468, 471, 448 read with Section 34 of the Indian Penal Code is quashed.

Rule is made absolute accordingly. No costs.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)

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