

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

CRI. APPLICATION (APL) NO. 379 OF 2014

1. **Manish S/o. Purushottam Mansani,**
Aged about 32 years, Occ. : Business,
through its Owner, Manish Motors,
Wardha.

2. **Anand S/o. Purushottam Mansani,**
Aged about 35 years, Occ. : Business,
through its Manager, Manish Motors,

Both R/o. Near Junapani Chowk,
Ring Road, Pipri, Wardha,
Tah. and Distt. Wardha.

.... **APPLICANTS.**

// **VERSUS** //

1. **State of Maharashtra,**
Through its Police Station Officer,
Police Station, Lakadganj,
Nagpur.

2. **Vinay S/o. Bhaskar Thakre,**
Manager, Unnati Vehicles,
R/o. 6, Gire Layout, Near
Dr. Chaoudhari Zingabai Takli,
Police Station, Gitti Khadan,
Nagpur.

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

None for the Applicants.

Ms Mayuri Deshmukh, A.P.P for Non-applicant No.1/State.

Shri A.T.Purohit, Advocate for Non-applicant No.2.

CORAM : Z.A.HAQ AND AMIT B. BORKAR, JJ.
DATED : DECEMBER 04, 2020.

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

1. Heard.

2. This is an application under Section 482 of the Code of Criminal Procedure for quashing the F.I.R. No.119 of 2014, dated 26th April 2014 for the offences punishable under Sections 406 and 420 read with Section 34 of the Indian Penal Code, registered against the applicants with non-applicant No.1-Police Station.

3. The First Information Report came to be registered against the applicants on 26th April 2014 alleging that the applicants approached the non-applicant No.2 with the proposal that they will enter into the agreement as Selling Agent with non-applicant No.2. It is further alleged that initial transaction with the applicants was in cash and thereafter till 31st January 2014 in all 129 Vespa two wheelers were purchased from the non-applicant No.2, but the price of the said two wheelers to the tune of Rs.10,14,921/- was not paid. Therefore, it is alleged that by not paying the amount of Rs.10,14,921/-, the applicants have cheated the Non-applicant No.2. The applicants have challenged the First Information Report by filing the present application.

4. On 11th July 2014 this Court issued notice and granted ad-interim relief directing the non-applicant No.1 not to take any coercive steps against the applicants. Thereafter on 5th December 2014 this Court issued Rule.

5. The non-applicant No.1 filed its reply on 8th August 2014 and it was stated that the question as to whether there was dishonest intention at the beginning of the prosecution, can be adjudicated only after investigation in the matter is over. It is stated that there is a *prima-facie* material against the applicants. Therefore, the non-applicant No.1 prayed for dismissal of the application.

6. The non-applicant No.2 filed his reply in which it is stated that there was MOU on 7th December 2013 and the applicants requested the non-applicant No.2 to allow them to act as Selling Agent. It is further stated that the sum of Rs.10,14,921/- is payable by the applicants to the non-applicant No.2. It is further submitted that there is *prima-facie* material to punish the applicants for the offences under Sections 406 and 420 of the Indian Penal Code and therefore, it is prayed that the application deserves to be dismissed.

7. When the matter was called out on 2nd December 2020 none appeared for the applicants and therefore, the matter was adjourned for today. Today also, no-one appeared for the applicants.

8. We have heard Ms Mayuri Deshmukh, learned A.P.P. for the non-applicant No.1 and Shri A.T.Purohit, learned Advocate for the non-applicant No.2.

9. Having evaluated the contents of the First Information Report along with reply as filed by the non-applicants, we are satisfied that whether there was dishonest intention at the inception of the transaction between the non-applicant No.2 and the applicants, can be adjudicated during the course of the trial and for that purpose evidence is required to be led by the parties.

10. At this stage, it will be difficult to ascertain whether there was dishonest or fraudulent intention on the part of the applicants while entering into the transaction with the non-applicant No.2. Therefore, we are satisfied that the extraordinary powers under Section 482 of the Code of Criminal Procedure cannot be exercised in the facts and circumstances of the present case.

11. We, therefore, pass the following order:

Criminal Application (APL) No. 379 OF 2014 is **dismissed**.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)