

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

CRIMINAL APPLICATION (ABA) NO.753 OF 2020

(Ashok s/o Gendla Choudhari (Makade) and others Vs. State of Maharashtra thr. PSO
PS Gittikhadan, Nagpur)

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

Court's or Judge's orders.

Mr. Y.V. Nayyar, Advocate for Applicant.
Mr. N.R. Rode, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 21st DECEMBER, 2020.

Heard.

2. The complainant purchased plot admeasuring 3000 sq.ft. vide sale-deed dated 18.08.2017 from the applicant.

3. On 06.11.2020 the complainant lodged report with Police Station Gittikhadan, Nagpur alleging that it was suppressed that approximately 300 sq.ft. portion was already sold.

4. The complainant is a property broker. The portion allegedly sold prior to the execution of the sale-deed are two shop blocks. The sale-deed is executed with respect to shop block admeasuring 100 sq.ft. and a reference is made, which is hand written, also to proportionate undivided share in land. The other shop is the subject-matter of an agreement and sale-deed is not executed.

5. According to the complainant he was assured that the persons occupying the shop block shall vacate and that they are tenants, and it was only later on that the complainant came to know that the occupants are owners.

6. Apart from the contentious version, it is fairly stated by the learned APP Mr. Rode that the documentary evidence is already with the Investigating Officer and that custodial interrogation may not be necessary.

7. Even *de hors* the fair statement of the learned APP, I do not see any impediment in protecting the applicant. It would be a matter of trial whether there was any intention to cheat from the very inception. As noted, the complainant was not any purchaser and was a real estate agent. It would be for the trial court to look into the events preceding, contemporary and following the sale-deed and to ascertain the intention. At this stage, I am satisfied that if the applicants are protected, investigation shall not be adversely affected.

8. The interim protection granted vide order dated 14.12.2020 is made absolute with the only modification that the applicants 2 to 4 shall attend the concerned police station twice a week between 02:00 p.m. to 04:00 p.m., till the filing of the charge-sheet.

JUDGE