

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

CRIMINAL APPLICATION NO.159 OF 2021

Krishnarao Dinkar Shrungare & Anr. Applicants
versus
The State of Maharashtra & Anr. Respondents
.....

- Mr.Sanjeev B. Deore a/w Ms.Suchita Pawar i/b. Adityaraj Gaikwad, Advocate for Applicants.
- Mr.J.P. Yagnik, APP for the State/Respondent.

**CORAM : NITIN JAMDAR &
SARANG V. KOTWAL, J.**

DATE : 13 OCTOBER 2021

P.C. :

. Having perused the FIR, it was put to the learned counsel for the Applicant, the availability of the remedy of applying discharge after the charge-sheet is filed where the contentions can be considered, the learned counsel for the Applicant submitted that since he has invoked the jurisdiction under Section of 482 of Code of Criminal Procedure, the Applicant is not inclined and will address the Court on merits in this application itself.

2. The complaint was filed by the authorities that the Applicant has committed offence under Section 7 of Prevention of

Corruption Act 1988. The Applicant No.1 was working as an Additional Executive Engineer (Div-II) with MSDECL and the Applicant No.2 as Assistant Engineer. The complaint was filed by the complainant that the demand was made as regard to the meter to be installed by the Applicant. The demand was so made in respect of installation of transformer and the sanction.

3. The contention of the learned counsel for the Applicant firstly is that there is delay of two months in filing of the FIR. The offence that is invoked being under Prevention of Corruption Act, the aspect of delay will have to be considered at the time of trial as the prosecution may have an explanation for delay and it is not that on the ground of delay any statutory bar is being invoked. Then it was sought to be contended that the sanction for grant of transformer was already given and therefore there was no question of permission. It is also stated that the demand is not being made out in the complaint as the reading of the FIR would indicate. In the FIR the informant has specifically stated that as to what was the nature of demand, when it was made and the amount. The arguments advanced before us are the defences of the Applicant. The FIR is clear and cogent. This case, by no stretch of imagination, be called as rarest of rare case as laid down by the Apex Court in the case of *M/s. Neeharika Infrastructure Pvt. Ltd. v/s. State of Maharashtra and Ors.*¹, nor it falls in any of the parameters laid down in the decision of Apex

1 AIR 2021 SC 1918

Court in the decision of *State Of Haryana And Ors vs Ch. Bhajan Lal And Ors.*².

4. Learned counsel for the Applicant at this stage submitted that the Application may be permitted to be withdrawn, so that the Applicant can avail of the statutory remedy. As stated earlier, we had given this option to the Applicant, yet the Applicant proceeded with the matter.

5. It is time that we have to take a serious note of indiscriminate filing of petitions and applications for quashing the FIRs. The jurisdiction under Article 226 of the Constitution of India and section 482 of Cr.P.C. to quash an FIR has to be exercised in rare cases. The parameters under which an FIR can be quashed have been reiterated by the Supreme Court right from the decision of *Bhajan Lal*. In series of matters we have noticed that though the cases on the face of it do not fall in the parameters laid down, yet are argued at length and, thereafter a request is made for withdrawal to avail of the remedy of discharge. The jurisdiction under Article 226 and Section 482 of the Cr.P.C. is not for taking chances. The court docket then gets clogged and court has less time to attend the causes which are genuine and urgent.

6. The application is rejected.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)