

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

CRIMINAL APPLICATION NO.405 OF 2021

Jyoti Shyam Singh Yadav & Others ... Applicants

Vs.

State of Maharashtra & another ... Respondents

Mr.G.B. Solake for the Applicants

Ms.Sangeeta Shinde, APP, for Respondent – State

Ms.Pooja Joshi i/b Mr.A.M. Saraogi for Respondent No.2

**CORAM: S.S. SHINDE &
N.J. JAMADAR, JJ.**

DATED: AUGUST 23, 2021

P.C.:

1. Heard the learned Counsel appearing for the Applicants as also the learned Counsel appearing for the contesting respondents and the learned APP appearing for the Respondent – State.

2. We have carefully perused the allegations in the First Information Report and also the reply filed by Respondent No.2. In our view, for more than one reasons, the prayers in the application cannot be entertained. In the first place, further investigation is necessary. It is alleged by Respondent No.2 that it is the *modus*

operandi of the applicants to take premises on rent and then create dispute or put those premises for sale by publishing advertisements. Learned Counsel appearing for Respondent No.2 has invited our attention to the copy of one such advertisement.

3. The contention of the learned Counsel appearing for the applicants that pursuant to the leave and licence agreement, the possession of the premises is taken, is to be viewed in the attendant circumstances and also the material placed on record by Respondent No.2.

4. The submission on behalf of the applicants that they were put in possession of the subject premises under the leave and licence agreement is in the arena of disputed questions of facts, which cannot be decided in exercise of extraordinary writ jurisdiction.

5. If the allegations in the First Information Report are taken at their facevalue and read in their entirety, the alleged offences are disclosed and further investigation is warranted.

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

and shall not be construed as an impediment to the applicants to avail of an appropriate remedy as available in law in the event of filing chargesheet by the Investigating Officer.

7. In the aforesaid view of the matter, the Application is rejected.

(N.J. JAMADAR, J.)

(S.S. SHINDE, J.)

VISHWANATH
SATYANARAYANA
SHERLA

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