

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

CRIMINAL WRIT PETITION NO. 113 OF 2021

Pradeep Gajanan Dangate & Ors.

..Petitioners

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Kunal Ambulkar for Petitioners.

Mr. J. P. Yagnik, APP for State/Respondent No.1.

**CORAM : NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.**

DATE : 17 NOVEMBER 2021

P.C. :

. This writ petition is filed under Article 226 of the Constitution of India and under section 482 of the Code of Criminal Procedure for quashing of F.I.R. No. 398 of 2019 filed by the Respondent No.2 with Chinchwad Police station, under sections 420, 406, 504 and 507 r/w. 34 of the Indian Penal Code.

2. The allegation in the F.I.R. lodged by the Respondent No.2 is that, the Respondent No.2 was working in a company set up by the Petitioners. The Respondent No.2 was appointed as Designer Engineer. Though he had worked for some time, he was not given

any payment. The Petitioners' assured the Respondent No.2 that, in the month of September 2019 his balance payment would be made. When the Respondent No.2 went in the company premises, he found that, like the Respondent No.2, various workers had gathered there who were also in similar position as of the Respondent No.2 and were demanding their payment. The Respondent No.2 stated that, all of them tried to contact the C.E.O. of the company and office bearers i.e. the Petitioners, but they did not pay any attention, in fact, abused them during the telephonic conversation. When the Respondent No.2 and others went to the Chinchwad police station on 10 October 2019, the Petitioner No.2 was present there and he assured that he will make all the payment and no complaint should be filed. Since the Respondent No.2 did not believe the statement of the Petitioner No.2, the Petitioner No.2 executed a notarized document wherein it is stated that till the payment is made the company premises will not be closed and experience letter would be given. According to the Respondent No.2, on the next day of making this notarized document, the company was closed and the Petitioners were threatening him by employing antisocial elements.

3. The learned counsel for the Petitioners submitted that no offence under section 406 of the IPC is made out as there is no entrustment. However, this argument overlooks section 420 of IPC. Section 34 is also invoked. The F.I.R. states that, on the next date of giving notarized assurance of payment and of not closing the

company, the company was closed. Therefore, it cannot be said that there are ingredients whatsoever of section 420 of the Indian Penal Code are not present in the F.I.R. to quash the same. The defence of the Petitioners that the Respondent No.2 and others were instrumental in closing the company is something that the Petitioners can demonstrate it at the time of trial. The scope of jurisdiction under section 482 of the Code of Criminal procedure for quashing the F.I.R. is limited. It cannot be said that pleadings of the F.I.R. in totality discloses no offence. The case cannot be considered as rarest of rare case as stipulated by the Hon'ble Apex Court in the case of *Neeharika Infrastructure Pvt. Ltd. Versus State of Maharashtra and Others*¹.

4. The Writ Petition is accordingly disposed of.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)

¹ 2021 SCC OnLine SC 315