

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

CRIMINAL APPLICATION (APPA) NO.87 OF 2021  
 IN  
 CRIMIAL APPEAL NO.70/2021

The State of Maharashtra  
 vs.  
 Sanjeev S/o Shankarrao Khade and another

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

Court's or Judge's order

.....  
 Shri T.A.Mirza, APP for the applicant.

**CORAM : Z.A.HAQ &**  
**AMIT B. BORKAR, JJ.**  
**DATED : 05/02/2021.**

1. By this application under Section 378 (3) of the Code of Criminal Procedure, the State of Maharashtra has sought leave to file appeal against the order passed by the District Judge-2/Additional Sessions Judge, Nagpur, thereby refusing to confirm attachment of property of the non-applicant nos.1 and 2.

2. We have gone through the impugned order. The learned District Judge-2 while refusing to confirm attachment has not taken into consideration the fact that the property in question i.e. Flat No.101 was purchased by the respondent nos.1 and 2 for an amount of Rs.25,00,000/- on 11.5.2011. In addition

to the agreed consideration, the non-applicant nos.1 and 2 have incurred expenses in the form of registration and other expenditure to the tune of Rs. 1,95,100/-. The learned Judge without even referring to the consideration of Rs.25,00,000/- paid to the builder for purchasing of said property, has refused to confirm order of attachment in perfunctory manner relying on only one transaction of 2009 by which the respondent no.2 received an amount of Rs.3,11,000/- by sale of property. There is no evidence adduced by the non-applicant nos.1 and 2 to prove the source of consideration of acquisition of the property worth Rs.25,00,000/- in the year 2011.

3. Therefore, the applicant has made out case for grant of leave to file appeal against the order dated 13.08.2019 passed by the District Judge-2 and Additional Sessions Judge, Nagpur.

Criminal Application is allowed.

**JUDGE**

**JUDGE**