

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

CRIMINAL APPLICATION (APL) NO. 327 OF 2018

1. Tushar S/o. Babubhai Luhar,
Aged about 44 years, Occupation :
Medical Practitioner/Business,
R/o. Mira Bhayandar Road,
Near Petrol Pump, Mira Road,
Thane (East)
2. Sunyana W/o. Tushar Luhar,
Aged about 32 years, Occupation:
Household, R/o. Mira Bhayandar Road,
Near Petrol Pump, Mira Road,
Thane (East)

.... **APPLICANTS.**

// VERSUS //

1. State of Maharashtra,
Through P.S.O., P.S. Gitti-Khadan,
Nagpur.
2. Jagdish S/o. Purushottam Patel,
Aged about 30 years, Occ.: Business,
R/o. Jeewandeep Society, Bharat Mata
Uddyan, Central Avenue, Nagpur.

.... **NON-APPLICANTS.**

Shri C.A.Babrekar, Advocate for Applicants.
Shri S.D.Sirpurkar, A.PP for Non-applicant No.1/State.
Shri Sachin Jaiswal, Advocate for Non-applicant No.2.

CORAM : Z.A.HAQ AND AMIT B. BORKAR, JJ.
DATED : JANUARY 19, 2021.

ORAL JUDGMENT : (Per : Amit Borkar, J.)

1. Heard.

2. **RULE.** Rule is made returnable forthwith.

3. This is an application under Section 482 of the Code of Criminal Procedure challenging First Information Report No.599 of 2017, dated 9th October 2014, registered with non-applicant No.1-Police Station for the offences punishable under Sections 419 and 420 of the Indian Penal Code.

4. The First Information Report came to be registered against the applicants with the accusation that the applicant No.1 from time to time booked tickets with the non-applicant No.2 and has not paid amount of Rs.3,35,000/- towards payment of Railway and Airline tickets purchased by the applicant. The applicants have, therefore, filed present Criminal Application challenging registration of the First Information Report.

5. This Court on 5th April 2018 issued notice to the non-applicants and by way of ad-interim relief it was directed that charge-sheet should not be filed against the applicants.

6. The non-applicant No.1 has filed reply and it is stated that from the material available with the prosecution, there is sufficient evidence in

support of the allegations made against the applicants. It is further stated in the reply that the applicant No.1 has booked various tickets with the non-applicant No.2 who is working as Booking Agent. It is also stated that the applicant No.1 impersonated himself as a Doctor and induced the non-applicant No.2 to book tickets for the applicants.

7. We have considered the contents of the First Information Report and the reply filed by the non-applicant No.1. On careful consideration of the First Information Report, it appears that the allegation against the applicant is to the effect that he induced the non-applicant No.2 to book tickets on behalf of the applicant and has travelled on the said tickets. The essential allegation against the applicant No.1 is that he has not paid the amount of tickets. There is no allegation against the applicant No.2. On overall assessment of the First Information Report and the reply filed by the Non-applicant No.1, we are satisfied that the dispute between the applicant and the non-applicant No.2 is civil dispute for recovery of the amount. On *prima-facie*, assessment of the allegations and the reply, we are satisfied that the essential ingredients of the offence under Sections 419 and 420 of the Indian Penal Code are not made out from the material available on record. We, therefore, satisfied that the continuation of the proceedings against the applicants will amount to abuse of process of law.

8. We, therefore, pass the following order:

First Information Report bearing Crime No. 599 of 2017, dated 9th October 2017, registered with non-applicant No.1-Police Station for the offences punishable under Sections 419 and 420 of the Indian Penal Code is quashed and set aside.

Rule is made absolute accordingly.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)

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