

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

CRIMINAL APPLICATION (APL) NO. 767 OF 2020

APPLICANTS :-

1. Shailesh Akhai Gami, age: 33 years; Occ: Business, Resident of 73/71, Surana Sadan, 3rd Floor, Borza Bazaar Street, Fort, Mumbai
2. Jayashree Govind Gami, age; 36 years; Occ: Business; Karsandas, Ranchoodas Building, 4th Floor, Room No.61, Bora Bazaar Street, Mumbai.
3. Govind Akhai Gami; aged: 36 years; Occ: Business, Karsandas, Ranchoodas Building, 4th Floor, Room No.61, Bora Bazaar Street, Mumbai.
..... (Accused No.1 to 3)

...VERSUS...

- NON-APPLICANTS :-**
1. State of Maharashtra, Through its Police Station Officer, Sitabuldi, Nagpur, District Nagpur.
 2. Abhishek Yugalkishore Bhattad, Age: 39 years, Occu: Business, r/o B-305, Godrej Anandam, Model Mill Compound, Nagpur.
 3. Richa Abhishek Bhattad, Age: 36 years, Occ: Business, having B-305, Godrej Anandam, Model Mill Compound, Nagpur.
 4. Pushpa Gopaldas Bhaiya; age: Years; Occ: Business, r/o 204, Vinayak Arcade, Mahesh Colony, Chandan Nagar, Nagpur.
.....(Complainant)

Mr.Shaikh Sohailuddin Rahimuddin, Advocate for the applicant.
Mr.S.PDeshpande, A.P P for non-applicant No.1.
Ms S.N.Naniyar, Advocate for non-applicant Nos.2 to 4.

CORAM : Z.A.HAQ AND AMIT B. BORKAR, JJ.

DATED : 20.04.2021.

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

1. Heard.
2. **Rule.** Rule is made returnable forthwith.
3. By this application under section 482 of the Code of Criminal Procedure, the applicants have challenged registration of First Information Report No.824 of 2019, dated 28/12/2019 registered with non-applicant No.1-Police Station for the offences punishable under sections 420, 406, 465, 468, 469, 418, 426, 467, 470, 471 and 474 read with section 34 of the Indian Penal Code.
4. The First Information Report came to be registered against the applicants in view of order passed in Miscellaneous Criminal Application No.3955 of 2019 by Judicial Magistrate First

Class, Nagpur. It is alleged that the applicants forged invoices and sold goods of their company to different firms and collected huge amounts on the basis of forged invoices. The non-applicant No.2, therefore, filed FIR against the applicants.

5. The applicants have therefore, challenged the registration of FIR by filing present application. This Court on 03/12/2020 issued notice to the non-applicants. The non-applicant Nos.2 to 4 have filed affidavit dated 09/01/2021 stating that the applicants and non-applicant Nos.2 to 4 have mutually resolved their dispute amicably and had arrived at settlement in terms of memorandum of understanding dated 09/02/2020.

6. The applicants on 06/04/2021 volunteered to deposit an amount of Rs.1,00,000/- in the account of office of Government Pleader to compensate time spent by investigating agency. The applicants have filed pursis dated 09/04/2021 stating that the applicants have transferred amount of Rs.1,00,000/- in the account of M/s.Library Committee, Government Pleader, High Court, Nagpur.

7. We have carefully considered the allegations in the said FIR. On careful perusal of the allegations in the FIR, we are satisfied that the offences alleged against the applicants are personal in nature. Since non-applicant Nos.2 to 4 and the applicants have mutually and amicably settled their disputes, chances of conviction are bleak. The Hon'ble Apex Court in the case of ***Madan Mohan Abott v. State of Punjab***, reported in **(2008) 4 SCC 542**, has taken a view that it is advisable that in disputes where the question involved is of a purely personal nature, the Court should originally accept the terms of compromise even in criminal proceeding as keeping the matter alive with no possibility in favour of the prosecution is a luxury which Courts, grossly overburdened, as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation.

8. In view of above, we pass following order:

- i) First Information Report No.824 of 2019 dated 28/12/2019 registered with non-applicant No.1-Police Station for the offences punishable under

sections 420, 406, 465, 468, 469, 418, 426, 467, 470, 471 and 474 read with section 34 of the Indian Penal Code is quashed and set aside.

- ii) The amount of Rs.1,00,000/- deposited in the account of M/s. Library Committee, Government Pleader, High Court, Nagpur shall be utilized for installation of video conferencing facility in the office of the Government Pleader.
- iii) The application is allowed in the above terms.

9. Rule is made absolute accordingly.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)