

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

CRIMINAL APPLICATION (APL) NO.1029/2021

1. **Shobha W/o. Dattuji Wanjari,**
Aged about 56 Yrs., Occu.: Private
(Stamp Vendor)
2. **Dattu S/o. Gopalrao Wanjari,**
Aged about 60 yrs., Occu.: Retired,
Both R/o. House No.2, Ghorpad Road,
Near Madi Mandir, Yerkheda, Kamptee,
Tah. Kamptee, Distt. Nagpur
3. **Nikhil Shrikant Golhar,**
Aged about 34 yrs.,
Through Power of Attorney,
Manjushri Wd/o. Shrikant Golhar,
Aged about 65 yrs., Occu.: Retired,
R/o. B-704, Vasudha Parnika, Balewadi
Road, Opp. Laxmi Mata Mandir,
Balewadi, Pune – 411 045.

.... **APPLICANTS**

// **VERSUS** //

State of Maharashtra,
Through Police Station officer,
Ajani Police Station, Nagpur

.... **RESPONDENT**

Shri S. N. Bawangade, Advocate for applicant Nos. 1 and 2
Shri P R. Agrawal, Advocate for the applicant No.3
Ms S. S. Jachak, A.P.P for the respondent

CORAM : A. S. CHANDURKAR AND G. A. SANAP JJ.
DATED : 30th September 2021

ORAL JUDGMENT : (PER : G. A. SANAP, J.)

1] **Rule.** Rule made returnable forthwith. Learned APP waives service of notice for respondent. Heard finally by consent of learned counsel appearing for the parties.

2] The applicant Nos. 1 and 2, who has been arrayed as accused No. 5 and 6, as per Charge Sheet dated 10.06.2021, in Regular Criminal Case No. 2089 of 2017, have prayed for quashing the First Information Report and proceedings in Crime No.122 of 2016 registered against them at Ajani Police Station, Nagpur, for the offences punishable under Sections 419, 420, 465, 467, 468, 471, 120-B read with Section 34 of the Indian Penal Code.

3] The crime in question was registered on the report of the applicant No.3- Nikhil Shrikanth Golhar. It is the case of the applicants that one Mahendra Bhaurao Mhaiskar and Vinod Ramkrushna Tunkule, who stood as imposter and impersonated one Shri Shrikant Shyamrao Golhar, the original owner of the property. The property was transferred behind the back of original owner. The applicant Nos. 1 and 2 are the subsequent purchasers. It is the case of the applicant No.3 in the report that, the applicant Nos. 1 and 2 knew the real state of affairs and despite knowing the real state of affairs, they purchased the said property from accused No.1 Mahendra Mhaiskar.

4] According to the applicant Nos. 1 and 2, the purchase of the property by them was after verifying the title etc. They are

bonafide purchasers. It is their case that they have not committed any crime.

5] In this application alongwith applicant Nos. 1 and 2, the applicant No. 3 has also joined to support the applicant Nos. 1 and 2. They have placed on record the copy of the judgment passed by the learned Civil Judge Senior Division, Nagpur dated 13.08.2021, whereby the Court has declared the sale deed dated 03.10.2008 and 10.12.2012, executed in favour of the applicant Nos. 1 and 2, as null and void. The applicant No. 3 was plaintiff No.2 and the applicant Nos. 1 and 2 were defendant Nos. 3 and 4 in the said suit. The remaining defendants namely the original transferror did not participate in the said suit.

6] The learned Advocate for the applicants submitted that after this decree, the applicant No. 3 has agreed to sell the property in question to the applicant Nos. 1 and 2. The learned advocate further submitted that the children, who were plaintiff Nos. 2 and 3 in the suit have relinquished their right in the property in favour of plaintiff No.1. The plaintiff Nos. 2 and 3 have executed power of attorney in favour of plaintiff No.1-Manjushri d/o. Shrikant Golhar.

7] The learned Advocate for the applicants submitted that in view of above subsequent development and the fact that the applicant Nos. 1 and 2 were found by them to be bonafide purchasers, the continuation of this prosecution would not be warranted.

8] We have given thoughtful consideration to the submissions and perused the record and proceedings. It is seen on perusal of record that in the report the allegations were made against the applicant Nos. 1 and 2. However, the subsequent transaction between the parties namely the applicants would show that the applicant Nos. 1 and 2 were roped-in, the said crime being the subsequent purchasers. In our opinion, continuation of the prosecution against them would not be warranted. The material placed on record will also not justify the continuation of prosecution against the applicant Nos. 1 and 2. In the backdrop of the subsequent development, particularly the legal and valid agreement executed in favour of the applicant Nos. 1 and 2 the continuation of prosecution in our opinion, would be abuse of the process of law. Thus, in our view, in order to meet the end of justice, it would be just and proper to quash and set aside the first information report and charge sheet against the applicant Nos. 1 and 2 in Crime

No. 122 of 2016 as well as the Regular Criminal Case No. 2089 of 2017. Hence, following order:

ORDER

- i] The application is allowed.
- ii] The First Information Report bearing No. 122 of 2016, registered with Ajni Police Station, for the offences punishable under Sections 419, 420, 465, 467, 468, 471, 120-B read with Section 34 of the Indian Penal Code is quashed and set aside against applicant Nos. 1 and 2 only.
- iii] The applicant Nos. 1 and 2 shall stand discharged from Regular Criminal Case No. 2089 of 2017.

It is made clear that in view of the material on record, the prosecution against the remaining accused to continue without being influenced, in any manner, by the observations made in this order.

Accordingly, the Criminal Application stands disposed of.

JUDGE

JUDGE

Namrata