

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

CRIMINAL APPLICATION (APPP) NO. 1704 OF 2021
IN CRIMINAL APPLICATION (APL) NO. 474 OF 2021

(Umesh s/o Kewal Krishan Sahani & Ors. Vs. State of Maharashtra & Anr.)

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

Court's or Judge's orders.

Shri T.A. Mirza, A.P.P. for non-applicant No.1.
Shri G.S. Gour, Advocate for non-applicant No.2.

.....

**CORAM : V. M. DESHPANDE &
PUSHPA V. GANEDIWALA, JJ.
OCTOBER 12, 2021.**

This is an application for speaking to minutes moved on behalf of the original respondent No.2.

2] After hearing the learned counsel for the applicants in Criminal Application No. 474/2021, the learned Additional Public Prosecutor for the State and the learned counsel for original non-applicant No.2, vide order dated 28/09/2021, this Court dismissed the application.

3] The learned counsel for the original respondent No.2 has moved this application for speaking to minutes since certain typographical mistakes have to be corrected in the order.

4] Paragraph No.7 of the order dated 28/09/2021 reads as under :

“7. We have carefully scrutinized the allegations in the FIR, the relevant material and the reply filed by the Investigating officer and the non-applicant no.2. It appears that at the inception of the transaction the applicant no. 1 was aware of the fact that his title was under the cloud till he persuaded the non-applicant no.2 to part with the amount of Rs.40 lakhs. *Prima facie*, dishonest intention on the part of the applicant no.1 is apparent at the inception of the transaction. However, at this stage we cannot go into the truth or otherwise of the allegations made by the non-applicant no.2 against the applicants. We are therefore of the opinion that *prima facie*, the ingredients of the offence alleged against the applicants are not satisfied.”

5] After reading the aforesaid paragraph, it is crystal clear that there is a typing mistake in the last two lines of paragraph No.7 inasmuch as word ‘not’ is wrongly typed. Therefore, word ‘not’ is required to be deleted.

6] Paragraph No.8 of the order reads as under :

“8. For the reasons aforesaid, there is no merit in the allegations. The application is therefore, dismissed. The interim order granted by this Court stands vacated.”

7] From the reading, it is clear that word ‘allegations’ is typed instead of ‘application’. Hence, that has to be corrected.

8] Therefore, we allow this application, and instead of original paragraph Nos.7 and 8 in the order dated 28/09/2021, following shall be substituted :

7. We have carefully scrutinized the allegations in the FIR, the relevant material and the reply filed by the Investigating officer and the non-applicant no.2. It appears that at the inception of the transaction the applicant no. 1 was aware of the fact that his title was under the cloud till he persuaded the non-applicant no.2 to part with the amount of Rs.40 lakhs. *Prima facie*, dishonest intention on the part of the applicant no.1 is apparent at the inception of the transaction. However, at this stage we cannot go into the truth or otherwise of the allegations made by the non-applicant no.2 against the applicants. We are therefore of the opinion that *prima facie*, the ingredients

of the offence alleged against the applicants are satisfied.

8. For the reasons aforesaid, there is no merit in the application. The application is therefore, dismissed. The interim order granted by this Court stands vacated.

9] After the correction is done, the entire corrected copy of the order be freshly uploaded.

10] The application stands disposed of.

JUDGE

JUDGE

Sumit