

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

CRIMINAL APPLICATION (APL) NO. 559/2018

Devendra N. Jhawar & anr.

..VS..

State & anr.

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

Court's or Judge's orders

Shri N.G. Moharir, Adv h/f Shri S. Kotwal, Adv for the applicant(s)
Shri S.D. Sirpurkar, APP for the non-applicant no. 1
Shri H. Khan, Adv h/f Shri A.M. Quazi, Adv for the non-applicant no. 2

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

DATED : 03/02/2021

1] Heard.

2] The accused have approached this Court under Section 482 of the Code of Criminal Procedure with the prayer that F.I.R. No. 253/2017 registered against them with the non-applicant no. 1 – Police Station for the offences punishable under Sections 420 and 34 of the Indian Penal Code be quashed.

3] According to the applicants, the dispute between the applicants and non-applicant no. 2 – Informant is a civil dispute relating to the claim of the non-applicant no. 2 – Informant regarding his alleged right pursuant to an agreement of sale. According to the applicants, the non-applicant no. 2 has filed R.C.S. No. 143/2017 against the applicants which is pending before the Civil Court. It is contended that the agreement between the applicants and non-applicant no. 2 was cancelled on 25/01/2016 and then one of the concerned plot was sold to Jyoti Jitendra Thakkar

vide sale-deed dated 29/01/2016 and the other plot was sold to Harish S. Aashawani vide sale-deed registered on 22/01/2016. When we asked the applicants to produce the original alleged cancellation deed dated 25/01/2016, the applicants avoided to produce it on record.

4] Be that as it may, though the applicants claim that the cancellation deed was executed on 25/01/2016, and therefore the execution of the sale-deed of one plot on 29/01/2016 cannot be said to be illegal, undisputedly, one plot which the applicants claim to be the part of the agreement of sale was sold by sale-deed dated 22/01/2016, that is before the execution of alleged cancellation deed dated 25/01/2016.

5] Learned APP submitted that the investigation is almost complete and charge-sheet can be filed within 15 days.

6] Considering the facts of the case, we are not satisfied that the jurisdiction under Section 482 of the Code of Criminal Procedure should be exercised in the present case to quash the first information report.

7] Hence, the criminal application is **dismissed**.

CRIMINAL APPLICATION (APPP) NO. 1139/2018

8] In view of the dismissal of Criminal Application (APL) No. 559/2018, this application praying for dispensing with the certified/original copy of the F.I.R. does not survive. It is **disposed** accordingly.

JUDGE

JUDGE