

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

**CRIMINAL APPLICATION (APL) NO. 454 OF 2018
AND
CRIMINAL APPLICATION (APL) NO. 872 OF 2018**

CRI.APPLN.NO.454/2018

Narendra Rameshchandra Laddha,
Aged about 58 years, Occupation :Trader,
Proprietor Shri Traders, Chikhli,
R/o. Khandala Road, Near Govt. Dairy,
Chikhli, Tq. Chikhli, Dist. Buldhana.

.... **APPLICANT.**

// VERSUS //

1. The State of Maharashtra,
through P.S. Chikhli, Tq. Chikhli,
Dist. Buldhana.
2. Pandharinath Shriram Shingne,
aged : Adult, Occupation : District
Marketing Officer, R/o. Office of
District Marketing Officer,
Tq. And Dist. Buldhana.

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

With

CRI.APPLN.NO.872/2018

Shobhadevi Dindayal Wadhwani,
aged about 60 years, Occupation : Business,
R/o. Old Mehkar Road, Near Circuit House,
Chikhli, Tq. Chikhli, Dist. Buldhana.

.... **APPLICANT.**

// VERSUS //

1. The State of Maharashtra,
through P.S. Chikhli, Tq. Chikhli,
Dist. Buldhana.
2. Pandharinath Shriram Shingne,
aged : Adult, Occupation : District
Marketing Officer, R/o. Office of
District Marketing Officer,
Tq. And Dist. Buldhana.

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

Shri J.B.Kasat, Advocate for Applicants.

Shri N.S.Rao, A.P.P. for Non-applicant No.1/State.

Ms Shirin Meghe, Adv. h/f. Shri P.D.Meghe, Advocate for Non-applicant No.2.

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

DATED : JANUARY 28, 2021.

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

1. Heard.
2. **RULE.** Rule is made returnable forthwith.
3. By these applications under Section 482 of the Code of Criminal Procedure the applicants have challenged registration of First Information Report No.97 of 2018, dated 10th February 2018, registered with non-applicant No.1 Police Station for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code.

4. The First Information Report came to be registered against the applicants in both these applications with the accusations that the applicants had purchased black lentil at lower price from farmers and instead of selling it to Agricultural Produce Market Committee, the applicants sold it to National Agricultural Cooperative Marketing Federation of India (NAFED) at higher rates.

5. The applicants have therefore, challenged registration of the First Information Report by way of filing these applications. This Court on 8th June 2018 and on 24th September 2018 issued notices to the non-applicants.

6. In pursuance of notice the non-applicant No.1 has filed reply. It is stated in the reply that the matter was investigated by recording statements of farmers. The statement of District Deputy Registrar was also recorded. It is stated that the First Information Report came to be registered on the basis of the complaint filed by one Ravikant on 9th January 2018 and on the basis of the inquiry it is revealed that the applicants being agents of Agricultural Produce Marketing Committee purchased the lentil from farmers at lower price i.e. Rs.2,300/- per quintal and instead of selling it to Agricultural Produce Market Committee the applicants have sold out the said lentil to NAFED @ Rs.5,500/- per quintal.

7. During the course of hearing the learned A.P.P. invited our attention to the statements of witnesses. We have carefully considered the accusations of the First Information Report along with the statement of witnesses, namely farmers from whom the lentil in question was purchased by the applicants.

8. On reading of the statements of farmers it appears that the main accusation against the applicants was to the effect that in spite of selling lentil to the applicants, the farmers have not received their price. All the statements which are recorded by the Investigating Officer are to the similar effect that the farmers have not received their price in spite the applicants purchased it.

9. The offence which has been alleged against the applicants is under Section 420 of the Indian Penal Code. From the accusations in the First Information Report and from the material which has been placed on record by the prosecution in the form of statements of farmers, there are no accusations against the applicants that at the inception of the transaction between the applicants and the farmers, there was dishonest inducement by the applicants to the farmers to deliver their product to the applicants. The essence of accusations against the applicants in the First Information Report is only to the extent that the applicants instead of selling the lentil to Agricultural Produce Market Committee was sold it to NAFED and earned

huge profit. The prosecution has not been able to point out as to how the ingredients of offence under Section 420 of the Indian Penal Code are fulfilled, even if allegations in the First Information Report are assumed to be correct. At the most, it can be said that the applicants have failed to repay the amount of lentil supplied by the farmers to the applicants. In the facts of the present case, we are of the view that essential ingredients of the offence punishable under Section 420 of the Indian Penal Code are not made out by the prosecution. We are, therefore, satisfied that the issue involved in the present case is squarely covered by the judgment of the Apex Court in the case of *State of Haryana ..vs..Bhajan Lal*, reported in **1992 Supp.(1) SCC 335**. Clause (1) of Paragraph No.102 of the said judgment clearly lays down that if the accusations in the First Information Report are assumed to be correct still no offence is made out against the accused. We are therefore, satisfied that continuation of the prosecution against the applicants would amount to abuse of process of the Court.

10. We, therefore, pass the following order:

First Information Report No.97 of 2018, dated 10th February 2018 registered with non-applicant No.1-Police Station for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code only as against the applicants in Criminal Application No.454 of 2018 and Criminal Application No. 872 of 2018 is quashed and set aside

Rule is made absolute in the above terms.

CRI.APPLN.NO.1888/2018.

In view of disposal of Criminal Application No.872 of 2018, the instant application, praying for dispensing with typed copy of handwritten documents/FIR, does not survive.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)

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