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

CRIMINAL WRIT PETITION NO.986/2019

Prasanna s/o Madhukarrao Dhok
Aged about 51 years,
Occ. Business, R/o Plot No.1.,
Ramdeo Colony, Ambatoli,
Fulchur, Gondia, Tah. and
District – Gondia. ..... **PETITIONER**

// VERSUS //

1. State of Maharashtra through
its Secretary, Department of
Home, Mantralaya Mumbai-32.

2. Deputy Inspector General of Police,
(Gadchiroli Range), Nagpur Division,
Nagpur.

3. Superintendent of Police,
Gondia, Tah. and District Gondia.

4. Police Station Officer,
Police Station, Gondia City,
Tah. and District Gondia.

5. Shri Manohar Dabhade,
Age Major, Occ. Service
(Police Inspector), City Police
Station, Gondia, Tah. and
District Gondia.

6. Narendra @ Nanu s/o Natraj
Mudilyar, aged about 55 years,
Occ. Business.

7. Priyesh s/o Narendra Mudilyar,
Aged about 32 years,
Occ. Business,
Both 5 and 6 are

R/o Vivekanand Colony,
Mama Chowk, Gondia,
Tah. and District Gondia. .... **RESPONDENTS**

Mrs. Deepa I. Charlewar, Advocate for petitioner.
Shri S. M. Ghodeswar, APP for the respondents.
Shri V. S. Mishra, Advocate for respondent nos.6 and 7.

CORAM : SUNIL B. SHUKRE AND AVINASH G. GHAROTE, JJ.

DATED : 12/01/2021

ORAL JUDGMENT : (PER:- SUNIL B. SHUKRE, J.)

1] Heard. **Rule**. Rule made returnable forthwith.

2] Heard finally by consent of the learned counsel appearing for the parties.

3] By this petition, the petitioner who claims to be physically disabled up to 90 %, has sought direction of this Court to register offences punishable under Sections 420, 406, 468 and 469 of the Indian Penal Code against the accused persons named in his complaint dated 10.04.2019. These accused persons are respondent nos. 6 and 7 in this petition.

4] According to learned counsel for the petitioner, all the offences which are punishable under Sections 420, 406, 468 and 469 of the Indian Penal Code are *prima facie* made out and therefore, respondent no.4 ought to have registered these offences and made investigation into them. Learned APP for the State submits that appropriate order be passed in the matter. Learned counsel for the respondent nos.6 and 7 submits that even accepting the allegations made in the FIR, no offences are seen to be *prima facie* committed by anybody and therefore there is no substance in the petition.

5] Upon consideration of the complaint dated 10.04.2019 in a careful manner, we are inclined to accept the argument of learned counsel for respondent nos. 6 and 7 and we do not find ourselves in agreement with the submissions of learned counsel for the petitioner.

6] In the complaint dated 10.04.2019, there is only one paragraph in which some allegations have been made against respondent nos. 6 and 7. These allegations are in the nature that on 30th March 2019, respondent no.7 had taken away from the shop of the petitioner cash of Rs.2,29,728/- and that he had also taken such cash in different sums on different dates from the shop of the petitioner. The details of such taking away of cash, as alleged, are given in this paragraph and they are as follows:

Date	**Cash taken away**
01.04.2019	Rs.1,83,558/-
02.04.2019	Rs.3,15,284/-
03.04.2019	Rs.2,45,928/-

04.04.2019	Rs.3,04.900/-
05.04.2019	Rs.41,000/-
06.04.2019	Rs.15,000/-

7] Thus, in all according to the petitioner, cash amount of Rs. 15 Lakh has been taken away by respondent no.6. The petitioner has also alleged that when he made enquiry with the respondent no.6 as to why this cash amount was not deposited by him in his account, respondent no.7 gave evasive answers and that he only promised that he would deposit the entire cash amount in the bank account tomorrow or any other day shortly but, he did not keep his promise.

8] These are the allegations which would require their verification and being substantiated by some documentary evidence. The reason being that these allegations by themselves and taken at their face value, are not sufficient to *prima facie* disclose commission of cognizable offence much less any offence punishable under Sections 420, 406, 468 and 469 of the Indian Penal Code and therefore, some more evidence or material would be necessary. In fact, these allegations do not even remotely hint at the commission of any offence of forgery. So far as the offences relating to cheating and misappropriation are concerned, as stated by us just now, some evidence to substantiate the same would be required. It would be necessary for the petitioner to give the details of daily turnover of his shop and also the tax returns filed by him. Nothing of this sort has been done by the petitioner and therefore, no direction as sought by the petitioner can be issued to the Investigating Officer. The pre-requisite for issuance of such a direction is of a disclosure of commission of a cognizable offence, which is lacking in the present case.

9] In the circumstances, we find this petition to be devoid of merits. The Writ Petition stands dismissed. Liberty to the petitioner to resort to any other appropriate remedy as may be available at law, keeping all contentions open.

Rule is discharged.

JUDGE **JUDGE**

Sarkate.