

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

CRIMINAL APPLICATION (APL) NO.810 OF 2016

IndusInd Bank Pvt. Limited,
through its Branch Manager
Vaibhav Shankarrao Arsad,
Aged about 39 years, Second Floor,
Samra Complex, Jaistambh Square,
Amravati, Tq. & Distt. Amravati.

.... **APPLICANT.**

// VERSUS //

1. The Police Station Officer,
Police Station Frezarpura,
Amravati, Tq. & Distt. Amravati.
2. Vivek Sitaram Jawanjal,
Age 44 years,
R/o. Ashti, Tq. Bhatkuli,
Distt. Amravati.

.... **NON-APPLICANTS**

Shri M. A. Vaishnav, Advocate for the applicant.
Shri T. A. Mirza, A.P.P. for the non-applicant No.1.

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

DATE : 16.02.2021.

ORAL JUDGMENT : [PER: Z. A. HAQ, J.]

1. Heard.
2. The IndusInd Bank Private Limited has filed this application under Section 482 of the Code of Criminal Procedure praying that the First Information Report bearing No.0827/2016

registered against unknown person for the offence punishable under Section 379 of the Indian Penal Code be quashed.

3. According to the applicant, it had given loan to the non-applicant No.2-Informant for purchasing vehicle and the non-applicant No.2 -Informant had given 20 cheques to the applicant-Bank for repayment of the amount of loan, that out of those cheques, 13 cheques were dishonoured and then the applicant-Bank had issued notice dated 04.05.2016 calling upon the non-applicant No.2- Informant to pay the balance amount or action would be taken regarding seizure of the vehicle, and then as the non-applicant No.2- Informant failed to pay the amount, the vehicle of the non-applicant No.2-Informant came to be seized through the person authorized by the applicant-Bank.

4. The non-applicant No.2-Informant surprisingly filed false report against unknown person suppressing all the above facts on which the First Information Report came to be registered, and apprehending action against the officers of the Bank, the applicant-Bank filed the present application. Because of the interim order granted by this Court on 30.11.2016, no coercive action is taken by the police in the matter.

5. The learned Advocate for the applicant, at the time of hearing referred to the judgment passed by the Hon'ble Supreme

Court in the case of *K. A. Mathai alias Babu & Anr. Vs. Kora Bibbikutty & Anr.* reported in (1996) 7 SCC 212, judgment given in the case of *Charanjit Singh Chada & Anr. Vs. Sudhir Mehra* reported in (2001) 7 SCC 417 and judgment given in the case of *Anup Sarmah Vs. Bhola Nath Sharma & Ors.* in **Special Leave Petition (Cri.) No.8907/2009** and submitted that the applicant-Bank and its officer has acted within the four corners of law and has not committed any illegality, much less offence on the basis of which the First Information Report could have been registered.

6. Though the non-applicant No.2-Informant is served, none appears for him. We find substance in the submission made on behalf of the applicant-Bank. This is a case of abuse of process of law by a person who himself is dishonest and has not paid the amount payable by him to the Bank.

7. Hence, we pass the following order :-

- i. The First Information Report bearing No.0827/2016 registered with the non-applicant-Police Station for the offence punishable under Section 379 of the Indian Penal Code is quashed.
- ii. The non-applicant No.2-Informant shall deposit amount of Rs.50,000/- (Rs. Fifty Thousand Only) with the Registry of this Court till 15.03.2021.

- iii. If the amount of Rs.50,000/- (Rs. Fifty Thousand Only) is deposited by the non-applicant No.2-Informant, Rs. 25,000/- (Rs. Twenty Five Thousand Only) shall be paid to the applicant-Bank and Rs. 25,000/- (Rs. Twenty Five Thousand Only) shall be paid to the Office of the Public Prosecutor, Nagpur Bench, Nagpur.

If the amount of Rs.50,000/- (Rs. Fifty Thousand Only) is not deposited by the non-applicant No.2-Informant with the Registry of this Court till 15.03.2021, the same shall be recovered as arrears of land revenue and the non-applicant No.1-Police Station Officer shall file compliance report on record of this Criminal Application till 03.05.2021.

Rule is made absolute in the above terms.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)