

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

CRIMINAL APPLICATION (APL) NO.996 OF 2018

Sau. Pradnya Ujjwal Ramteke,
Proprietor of M/s MettashaIndane,
Gadchandur, Ages 42 yrs, Occu. LPG
Distributor. Temporary R/o Ward no.
5, Oppo. New Police Station,
Gadchandur, Tah. Korpana, District
Chandrapur. Permanent R/o
Jaripatka, Ring Road, Nagpur,
Tahsil & District Nagpur.

.... **APPLICANT**

// **VERSUS** //

State of Maharashtra, Through
P.S.O. Gadchandur, Tahsil Korpana &
District Chandrapur.

.... **RESPONDENT**

Shri Aditya Satpute, Advocate for the applicant.
Shri N.S. Rao, A.P.P. for the non-applicant/State.

CORAM : **Z.A HAQ AND AMIT B. BORKAR, JJ.**
DATE : **11 FEBRUARY, 2021.**

JUDGMENT: [PER: AMIT B. BORKAR, J.]

1. Heard. Rule. Rule is made returnable forthwith.

2. By this application under Section 482 of the Code of Criminal Procedure, the applicant has challenged registration of the First Information Report No.166/2018 dated 10th April 2018 registered with the non-applicant No.1-Police Station for the offences punishable under Sections 3 and 7 of the Essential Commodities Act, 1955.

3. The First Information Report came to be registered against the applicant with the accusations that the applicant had taken amount of Rs.2,000/- from the beneficiaries of the Prime Minister Ujjawala Yojana (PMUY) which the beneficiaries were not liable to pay. It is therefore, alleged that the applicant has committed an offence under Sections 3 and 7 of the Essential Commodities Act, 1955. The applicant has therefore, filed present application challenging registration of the First Information Report.

4. This Court on 29th October 2018 issued notice for final disposal. The non-applicant No.1 on 4th January 2019 filed reply and it is stated that the Investigating Officer has recorded statements of 50 beneficiaries and all the beneficiaries have specifically stated that the applicant has taken amount of Rs.2,000/-

for providing new gas connection. It is further stated as per Prime Minister Ujjawala Yojana Scheme cost of getting new gas connection is Rs.100/- The applicant has taken an amount of Rs.2,000/- from the beneficiaries. It is further stated that investigation is in progress and statements of 50 beneficiaries are recorded which is *prima-facie* sufficient to implicate the applicant.

5. We have carefully considered the allegations in the First Information Report and reply filed by the non-applicant No.1. By taking into consideration the statement of the investigation Agency in paragraph No.3 of the reply, we are of the view that this is not the stage to decide whether there is any truth in the allegations made but to form an opinion whether on the basis of the allegation a cognizable offence or offences alleged has been *prima facie* made out. The guilt or otherwise of the accused can be proved only after conducting a full-fledged trial. It is well settled by Apex Court in a catena of cases that the power under Section 482 Cr.P.C. has to be exercised sparingly and cautiously to prevent the abuse of process of any court and to secure the ends of justice. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court should refrain from giving a *prima facie* decision unless there

are compelling circumstances to do so. Taking the allegations and the complaint as they were, without adding or subtracting anything, if no offence was made out, only then the High Court would be justified in quashing the proceedings in the exercise of its power under Section 482 CrPC. An overall perusal of the materials placed before us makes out a *prima facie* case against the accused which requires to be decided by conducting a proper trial. At this stage the High Court cannot analyze and meticulously consider the evidence and anticipate whether it will end up in conviction or acquittal. In the circumstances, in our opinion, it is not proper for the High Court to interfere with the proceedings and quash the First Information Report.

6. We, therefore, pass the following order.

(i) The Criminal Application is dismissed.

(ii) The applicant shall have liberty to adopt appropriate proceedings in case charge-sheet is filed against the applicant.

Criminal Application is disposed of accordingly.

JUDGE

JUDGE

