

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

CRIMINAL APPLICATION (APL) NO. 1085 OF 2018

Moreshwar S/o. Pandurang Mathankar,
Aged about 53 years, Occ. : Agriculturist,
R/o. Vinayak Layout, Tilak Ward, Warora,
Dist. Chandrapur.

.....**APPLICANT**

... **VERSUS** ...

1. State of Maharashtra,
Through Police Station Officer,
Police Station – Warora,
District : Chandrapur.

2. Dilip S/o. Suryabhan Bansod,
Aged about 35 years, Occ. : Service,
R/o. Sahakari Sanstha, Bhadravati,
Dist. : Chandrapur.

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

Shri S. V. Sirpurkar, Advocate for the Applicant.

Shri S. S. Doifode, Additional Public Prosecutor for the Non-applicant No.1.

**CORAM : V. M. DESHPANDE AND
AMIT B. BORKAR, JJ.**

DATE : 21.08.2021.

ORAL JUDGMENT : (PER AMIT B. BORKAR, J.)

1. Heard.

2. Rule. Rule is made returnable forthwith.

3. By this application under Section 482 of the Code of Criminal Procedure, the applicant is challenging registration of the First Information Report No.626/2018 registered with the

non-applicant No.1 – Police Station for the offences punishable under Sections 384, 385, 467, 468, 469, 471 of the Indian Penal Code, Section 39 of the Maharashtra Money-Lending (Regulation) Act, 2014, Section 69(b) of the Bombay Stamp Act, 1958 and Section 36 of the Maharashtra Land Revenue Code, 1966.

4. The First Information Report came to be registered against the applicant and others with the accusations that the complainant who was working as Assistant Registrar, Co-operative Societies, Bhadravati along with his squad and Police Staff had laid raid on establishment and residence of accused No.1 on 05.04.2018 and after conducting search certain documents were found in his house in the form of blank cheque, details of disbursement of loan, original agreement to sale and other material. On scrutiny of the voluminous documents found with the accused No.1, the complainant founds that the accused No.1 in collusion with 13 other accused was carrying out illegal business of money lending and they have cheated agriculturist by making false and fabricated documents.

The applicant has therefore, challenged the registration of the First Information Report before this Court by way of present applicant.

5. This Court on 25.09.2019, issued notice to the non-applicants. The non-applicant No.1 has filed reply stating that during the investigation, the Investigating Officer has recorded statement of witnesses which shows that the accused No.1 in collusion with other co-accused is carrying out illegal money lending business and lend money to the witnesses after taking the mortgage land with them and without intimating witnesses fraudulently and dishonestly sold out the agricultural land to co-accused including the applicant and also demarcating layouts sold plots in the name of accused. The reply specifically states that insofar as the present applicant is concerned, agreement to sale and delivery of possession of 9 plots of Mouza Chinora is in the name of present applicant. It is also stated that the deed of agreement of sale of agricultural land of Mouza Raipur, District Yavatmal has been executed by one Sayyad Habib Shah in the name of present applicant, blank stamp paper of Rs.100/- each in the name of the present applicant, the agreement to sale of agricultural land situated at Mouza Khanji, Tahasil, Warora, District Yavatmal in the name of present applicant, 7/12 extract of agricultural land admeasuring 54.2 H.R. were seized by the Authorized Officer during search of residence of the accused No.1. The Investigating Officer recorded statement of applicant in question and answer form, wherein he stated that he had neither

kept sale deed in his name in the house of the accused No.1 nor he had purchased agricultural land at Warora or elsewhere in his name. It is stated that there is sufficient material against the applicant.

6. We have carefully considered the allegations in the First information Report and the reply filed by the Investigating Agency. On careful consideration of the First Information Report along with the reply filed by the non-applicant No.1, we are of the view that the applicant has failed to make out the case for quashing the First Information Report. On consideration of material and the reply filed by the Investigating Agency, we are of the opinion that *prima facie* ingredients of the offences alleged against the applicant are fulfilled. In our opinion, the Investigating Agency needs to be given an opportunity to investigate into allegations against the applicant and other accused. The Hon'ble Apex Court has time and again observed that the extra-ordinary power under Section 482 of the Code of Criminal Procedure should be exercised sparingly and with great cautious. The inherent power under Section 482 of the Code of Criminal Procedure ought not to be exercised to stifle a legitimate prosecution. It is not necessary to scrutinise the allegations for the purpose of deciding whether such allegations which are likely to be accepted in the trial. For quashing of the First Information Report, at its threshold, it is not

permissible to consider the truth or otherwise of the allegations against the accused.

7. In our considered view, it is not possible, at this stage, to stifle the investigation in relation to allegations against the applicant of being illegally engaged in money lending business. Taking overall view of the matter, we are satisfied that this is not a fit case to exercise power under Section 482 of the Code of Criminal Procedure.

8. Hence, the Criminal Application is dismissed.

9. Rule is discharged. Pending application(s), if any, stand(s) disposed of.

JUDGE

JUDGE