

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

11 CRIMINAL APPLICATION NO.1775 OF 2022

ABDUL RAUF ABDUL RAHEMAN SHAIKH

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. D.B. Sadaphule, Advocate for the applicant

Mr. M.M. Nerlikar, APP for respondent No.1

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**CORAM : SMT. VIBHA KANKANWADI AND
RAJESH S. PATIL, JJ.**

DATE : 05th SEPTEMBER, 2022

PER COURT :

1 By present application, the applicant has prayed for quashment of First Information Report vide Crime No.40/2022 dated 24.03.2022 registered with Vedant Nagar Police Station, Aurangabad, for the offence punishable under Sections 452, 403, 354, 324, 323, 427, 504, 506, 143 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. D.B. Sadaphule for the applicant, and learned APP Mr. M.M. Nerlikar for respondent No.1. It is not even necessary to issue notice to respondent No.2.

3 In nutshell it has been tried to be submitted on behalf of the applicant that he is the owner and possessor of house/flat bearing No.B-10 in Manik Complex, Station Road, Aurangabad and he is paying taxes. He had not entered into any agreement or contract with the informant. In fact, she is the relative of the applicant. No such incident as narrated in the First Information Report had taken place on 23.03.2022. The informant and her family members were insisting that the said flat should be given in the name of the informant or her husband, to which the applicant is not ready. The applicant had approached the same Police Station on 28.12.2021 in respect of the incident that had taken place on 27.12.2021, it was against the husband of respondent No.2. Offence under Section 507 of the Indian Penal Code was registered as non cognizable offence, but no further action has been taken by police. Now, a false case has been filed. It would be a futile exercise for the applicant to face the trial when no such incident had taken place and he has not committed any offence.

4 Per contra, the learned APP pointed out that the contents of the First Information Report are disclosing the offence, under which the crime has been registered. The informant has specifically stated that the said flat was purchased by her from the applicant, however, he has not completed the act of registration. She has also stated that the dispute has been taken to the

Court.

5 At the outset, a disputed fact cannot be gone into under Section 482 of the Code of Criminal Procedure. There is no such material on record to show that the First Information Report is false or concocted. The First Information Report has been lodged on 24.03.2022 around 23.25 hours in respect of the incident dated 23.03.2022. The informant has stated that the applicant had sold the said flat to the informant, who is residing with her husband and in-laws. She has also stated that the entire amount of consideration has been paid by them, however, the registry could not take place, due to the applicant. She has also stated that they have approached the Court. This fact, though denied by the applicant, is part of the First Information Report.

6 As regards the incident dated 23.03.2022 is concerned, it has been stated that the applicant had gone inside the house of the informant along with 10-15 unknown persons. After abusing applicant has told that the house belongs to him and, therefore, they should vacate the same. Informant says that she was assaulted by the applicant and she has received the injury to her left ear. The applicant and the other male who had came along with him had also assaulted her father-in-law, the household articles were thrown

outside the house as well as damage was caused to the articles. There is mischief of cash of Rs.65,000/- and 10 tolas of gold, and the applicant has outraged the modesty of the informant. When all these acts have been stated and the author of the crime is stated to be the applicant, then, this cannot be the fit case where the inherent powers should be exercised by this Court. Application stands dismissed.

(Rajesh S. Patil, J.)

(Smt. Vibha Kankanwadi, J.)

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