

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 CRIMINAL APPLICATION NO.2613 OF 2022

SANJIV MURLIDHAR DAHALE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. V.P. Kadam, Advocate for the applicant

Mr. R.V. Dasalkar, APP for respondent No.1

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

DATE : 23rd AUGUST, 2022

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed for getting the First Information Report lodged against the present applicant quashed and set aside by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973.

2 Heard learned Advocate Mr. V.P. Kadam for the applicant and learned APP Mr. R.V. Dasalkar for respondent No.1. It is not even necessary to issue notice to respondent No.2 – the informant.

3 It has been vehemently submitted on behalf of the applicant that the applicant is a licenced money lender. Respondent No.2 had given some gold belonging to him as mortgage with the applicant and had taken loan. However, it was not as per the contention of the informant in the First Information Report. The informant had made a complaint to the Registrar under Money Lending Act and inquiry was made. By his letter dated 11.10.2021 the concerned authority had informed that there is no violation of the Maharashtra Money Lending Act, 2014 and, therefore, his application was disposed of. Thereafter on 21.07.2022 the First Information Report has been lodged vide Crime No.287/2022 with Nanalpeth Police Station, Parbhani contending that the applicant has committed offence punishable under Sections 406, 420 of the Indian Penal Code, 1860. This is nothing but a revengeful act. In fact, the respondent No.2 while registering the offence has produced one bogus receipt which mentions 39 grams of jewellery/gold to the applicant, but there is no signature on such receipt. The record which is available with the applicant shows only 10 grams of gold given as security or mortgage. When one attempt of the informant had failed and when he is having civil remedy, he has intentionally filed the First Information Report to pressurize the applicant and, therefore, it deserves to be quashed and set aside.

4 The learned APP submitted that the matter is coming for the first time and it appears that the investigation would be at a very initial stage. Unless there is thorough investigation the First Information Report cannot be quashed.

5 At the outset, it is to be noted that the First Information Report has been lodged on 21.07.2022 and the present application has been filed on 02.08.2022. That means, within 13 days of lodging of the First Information Report even the application for quashing of such First Information Report has been produced. The applicant has not produced his own record to support his contention that he had received only 10 grams of gold from the informant. One receipt dated 26.02.2016 has been produced at Exh.'B', however, the mandatory register's relevant extract has not been produced. Definitely, investigation is required in this case. When the informant says that, in fact, he had given 39 grams of gold, he has stated that he had paid certain amount in November, 2016 and April, 2017, but according to him, no receipt was issued by the applicant. In September, 2021 when he had gone to give the remaining amount of Rs.5,000/- and take back the gold articles, the applicant disclosed about him that he has melted the gold and it will not be returned. Thereafter also the informant was visiting his shop, time and again, and by offering the remaining amount he was requesting that his gold

should be returned. It is alleged that the present applicant asked him to pay Rs.63,700/-, for which he told that no receipt would be issued and he would give only 10 grams of gold. It was at that point of time the informant realized that he has been cheated and his gold has been misappropriated. When the matter requires investigation and the investigation is at a preliminary stage, such First Information Report cannot be quashed.

6 This Court is observing that the persons against whom First Information Reports have been lodged are approaching for quashment of the First Information Reports in short period and they are not allowing the investigation to proceed further. This is dangerous trend. In fact, the responsibility is also on the Advocates who are representing such applicants that they should wait for reasonable time and see what is the material that has been collected against such petitioners/applicants. Filing of such applications would then be a futile exercise if it is found by the Courts that the investigation is required. Such tendency affects the filing and ultimate pressure on the Courts. Therefore, such applications will have to be rejected at the threshold. Accordingly, the application is dismissed.

(Rajesh S. Patil, J.)

(Smt. Vibha Kankanwadi, J.)