

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

CRIMINAL APPLICATION (APL) NO.422 OF 2020

APPLICANT : Himanshu s/o Ajitkumar Ved, Aged
about 38 years, Occ: Business, Tq. &
Dist. Amravati.

//VERSUS//

RESPONDENTS : 1. State of Maharashtra, through Police
Station Officer, Police Station Gadge
Nagar, Amravati, Tq. & Dist.
Amravati.

2. The Commissioner of Police,
Amravati City, Tq. and Distt.
Amravati.

3. Ashadevi wd/o Murlidhar Bajaj, Aged
about 60 years, Occ. : Household,
R/o. House No.32, Ward No.9, Galli
No.1, Krushna Nagar, Amravati, Tq.
& Dist. Amravati.

Mr. P.R. Agrawal, Advocate for the Applicant.
Mr. S.M. Ghodeswar, APP for Non-Applicant Nos.1 & 2.
Ms. Radha Mishra, Advocate (appointed) for Non-Applicant No.3.

WITH
CRIMINAL APPLICATION (APL) NO.420 OF 2020

APPLICANT : Himanshu s/o Ajitkumar Ved, Aged about 38 years, Occ: Business, R/o. Camp, Amravati, Tq. & Dist. Amravati.

//VERSUS//

RESPONDENTS : 1. State of Maharashtra, through Police Station Officer, Police Station, City Kotawali, Amravati, Tq. & Dist. Amravati.

2. The Commissioner of Police, Amravati City, Tq. and Distt. Amravati.

3. Ashadevi wd/o Murlidhar Bajaj, Aged about 60 years, Occ. : Household, R/o. House No.32, Ward No.9, Galli No.1, Krushna Nagar, Amravati, Tq. & Dist. Amravati.

Mr. P.R. Agrawal, Advocate for the Applicant.
Mr. S.M. Ghodeswar, APP for Non-Applicant Nos.1 & 2.
Ms. Radha Mishra, Advocate (appointed) for Non-Applicant No.3.

WITH

CRIMINAL APPLICATION (APL) NO.555 OF 2020

APPLICANTS : 1. Harish Chandumal Bajaj, Aged about : 56 years, Occupation: Business, R/o. Krishna Nagar Galli

(Orig. Accused in FIR

No.188/2020 & 455/2020)

No.1, Gadge Nagar, Amravati.

(Orig. Accused in FIR
No.188/2020 & 445/2020)

2. Mahesh Chandumal Bajaj, Aged
about : years, Occupation: Business,
R/o. Siddhivinayak Colony, Line
No.2, Gadge Nagar, Amravati.

(Orig. Accused in FIR
No. 445/2020)

3. Khushiram Chandumal Bajaj, Aged
about: years, Occupation: Business,
R/o. Siddhivinayak, Colony Line
No.2, Gadge Nagar, Amravati.

(Orig. Accused in FIR
No. 445/2020)

4. Prakash Chandumal Bajaj, Aged
about: years, Occupation: Business,
R/o. Bachraj Gadge Nagar, Amravati.

//VERSUS//

NON-APPLICANTS : 1. State of Maharashtra, through Police
Station Gadge Nagar Police Station
Amravati

2. State of Maharashtra, through Police
Station Kotwali Police Station,
Amravati.

(Orig. Complainant in FIR
No.188/2020 & 445/2020)

3. Ashadevi Murlidhar Bajaj, Aged
about: 60 years, Occupation:
Housewife, R/o. Krishna Nagar, Galli
No.1, Ward No. 9, House No.32,
Gadge Nagar, Amravati.

Mr. G.I. Dipwani, Advocate for the Applicants.
Mr. S.M. Ghodeswar, APP for Non-Applicant Nos.1 & 2.
Ms. Radha Mishra, Advocate (appointed) for Non-Applicant No.3.

CORAM : MANISH PITALE AND
 VALMIKI SA MENEZES, JJ.

DATE : 24th AUGUST, 2022.

ORAL JUDGMENT (Per: Manish Pitale, J.)

Heard finally with the consent of the learned counsel appearing for the parties. **Admit.**

02] These three applications under Section 482 of the Code of Criminal Procedure, 1973 (Cr.PC), are filed by applicants, who are arrayed as accused in two First Information Reports (FIR) dated 08.06.2020 and 28.06.2020, registered at Police Stations Gadge Nagar and Kotwali respectively in the City of Amravati, for offences under Sections 420, 465, 467 and 471 read with Section 34 of the Indian Penal Code, 1860 (CPC).

03] The applicant in Criminal Application (APL) Nos.420/2020 and 422/202 is accused No.5 in FIR No.445/2020 dated 08.06.2020, registered at Police Station Gadge Nagar, Amravati and he is accused No.2 in FIR No.188/2020, dated 28.06.2020, registered at Police Station Kotwali. He has filed two separate applications seeking quashing

of the two FIRs dated 08.06.2020 and 28.06.2020.

04] The applicants in Criminal Application (APL) No.555/2020 are accused Nos.1 to 4 in FIR No.445/2020 dated 08.06.2020, registered at Police Station Gadge Nagar, Amravati and applicant Nos.1 and 2 in this application are accused Nos.1 and 3 in FIR No.188/2020 dated 28.06.2020, registered at Police Station, Kotwali, Amravati.

05] The two FIRs have been registered at the behest of non-applicant No.3 in all these applications, alleging that the applicants in Application No.555/2020, being her brothers-in-law, had cheated her by illegally executing fabricated document of sale in favour of the applicant in Application Nos.420/2020 and 422/2020.

06] Mr. P.R. Agrawal, learned counsel appearing for the applicant in Application Nos.420/2020 and 422/2020 and Mr. G.I. Dipwani, learned counsel appearing for the applicants in Application No.555/2020, submit that the subject FIRs have been registered by the Police without any application of mind and that a dispute, which cannot be sustained even in a civil

proceeding, is sought to be illegally given colour of criminality.

07] Mr. Agrawal, learned counsel appearing for the applicant in Application Nos.420/2020 and 422/2020, submitted that the applicant has purchased property from legal representatives of original owner one Dhalumal Pahlajani, by way of a registered sale-deed dated 20.09.2013. It is submitted that a perusal of the copy of the registered sale-deed placed on record, would show that it is signed by the legal representatives of the said original owner and also consenting parties. The non-applicant No.3 has no concern with the said property. It is then brought to the notice of this Court that non-applicant No.3 along with other persons had filed a suit bearing Regular Civil Suit No.128/2020, for declaration and possession in respect of one shop in the aforesaid property, which was subject-matter of the sale-deed. By inviting attention to the pleadings in the suit, it was submitted that even according to the non-applicant No.3, the property was indeed owned by the said Dhalumal Pahlajani and the grievance of non-applicant No.3 appeared to be that her own husband, without any authority or necessity had surrendered possession of

the aforesaid leased shop in favour of the original owner of the property. In this backdrop, a prayer was made in the said suit for restoration of possession to non-applicant No.3 and other plaintiffs in the shop, which was subject-matter of the said suit.

08] By relying upon the contents of the said pleadings, the learned counsel appearing for the applicant, submitted that there was not even a semblance of dispute between the applicant and the non-applicant No.3 and therefore, there was no question of initiation of any criminal proceedings against the applicant at the behest of the non-applicant No.3. It was further submitted that since the non-applicant No.3 had been approaching the Police Authorities, making wild allegations in the matter, on 12.07.2015, a notice was issued by the City Kotwali Police Station, Amravati, to the applicant to remain present. In response, the applicant had produced copies of all documents and no further action was taken in the matter.

09] Thereafter, on 01.03.2016, the applicant received a notice from the Municipal Corporation of Amravati in respect of a complaint made by the non-applicant No.3. Upon all the relevant

papers being produced, the Corporation responded and informed the non-applicant No.3 that there was a proceeding pending before the Civil Court and that appropriate reliefs may be sought from the Court. It is brought to our notice that thereafter, again on 21.03.2016, another notice was received from the said Police Station at Kotwali, asking the applicant to co-operate with the enquiry, as regards grievance raised by the non-applicant No.3. It is submitted on behalf of the applicant that once again all the papers were furnished and no further action was taken in the matter.

10] It is submitted that in the backdrop of the aforesaid proceedings, when the oral report, leading to registration of the two FIRs, dated 08.06.2020 and 28.06.2020 are perused, it becomes evident that there was no even a semblance of case made out for initiation of criminal proceedings and yet, the Police Stations at Gadge Nagar and Kotwali in Amravati, registered the two FIRs. It was submitted that the facts narrated above, clearly indicated that the FIRs deserve to be quashed, as being vexatious and malicious. It was further submitted that two FIRs could not

have been registered for the same subject-matter or cause of action. Reliance was placed on judgments of the Hon'ble Supreme Court in the cases of *Devendra Vs. State of Uttar Pradesh reported in 2009(7) SCC 495* and *T.T. Anthony Vs. State of Kerala and others reported in (2001) 6 SCC 181*.

11] Mr. Dipwani, learned counsel for the applicants in Application No.555/2020, supported the contentions raised on behalf of the applicant in the other two applications and further added that the non-applicant No.3 had made wild and improbable allegations against the applicants and that there was no basis for registration of the two FIRs dated 08.06.2020 and 28.06.2020. It was submitted that initiation of criminal proceedings in the present case, was clearly an abuse of process of law, in view of the admitted facts on record and the statements made on behalf of the non-applicant No.3 in the aforementioned suit, pending before the Competent Court. It was submitted that there was complete absence of ingredients of offences alleged against the applicants and that therefore, the application deserved to be allowed.

12] Mr. Ghodeswar, learned Assistant Public Prosecutor, appeared on behalf of the non-applicant Nos.1 and 2 i.e. State Authorities. He submitted that the FIRs came to be registered on the basis of grievance projected by the non-applicant No.3, before the Police. It was submitted that the same set of facts could give rise to civil as well as criminal proceedings.

13] Ms. Radha Mishra, learned counsel (appointed) appearing on behalf of the non-applicant No.3, submitted that the said non-applicant has been duped by her brothers-in-law and that therefore, she had a grievance, which needed to be redressed. It was submitted that the FIRs were registered by the Police upon appreciating the grievance of non-applicant No.3 and the fact that she had made out a *prima facie* case against the applicants.

14] We have perused the material on record and we have heard learned counsel appearing for the rival parties. In the present case, a perusal of the oral reports, leading to registration of the two FIRs, may give an impression that the non-applicant No.3 was wronged to the effect that the sale-deed was executed, allegedly, fraudulently in favour of the applicant in Application

Nos.420/2020 and 422/2020 and in the process, the applicants in Application No.555/2020, being her brothers-in-law, had played an active role.

15] But, a perusal of the documents available on record, particularly, the civil suit filed by the non-applicant No.3 along with other parties, shows that firstly, the nature of the grievance sought to be raised by the non-applicant No.3 is purely of civil nature and secondly, the grievance raised by way of civil proceeding also has no connection at all with the grievance sought to be projected before the Police, leading to registration of the subject FIRs. In the suit itself, the non-applicant No.3 has conceded to the fact that the property was owned by the original owner i.e. Dhalumal Pahlajani and that her husband had only lease hold rights in a small shop in the said property, which according to her, had been illegally surrendered by her husband in favour of the original owner. There is no indication of any rights of ownership either in the husband of the non-applicant No.3 or in the non-applicant No.3 herself, pertaining to the small shop, leave alone the entire property, which was purchased by the

applicant before this Court from the legal representatives of the said Dhalumal Pahlajani. Therefore, it is difficult to understand as to what grievance, the non-applicant No.3 could have had against the purchaser of the property i.e. the applicant in Application Nos.420/2020 and 422/2020.

16] Similarly, the grievance sought to be raised by the non-applicant No.3 against the applicants in Application No.555/2020 i.e. her brothers-in-law, is also difficult to comprehend. The allegation appears to be that the said applicants forged the signature of the husband of the non-applicant No.3 in order to execute sale-deed in favour of the purchaser of the property i.e. applicant in Application Nos.420/2020 and 422/2020. There is no question of such a grievance being raised in the face of the document itself i.e. the registered sale-deed, which was executed by the legal representatives of the original owner Dhalumal Pahlajani in favour of the purchaser. Even otherwise, in the aforesaid suit, at the highest, the non-applicant No.3 claimed that her husband had only lease hold rights and that too concerning the small shop in the said property. Therefore, the

claims made by the non-applicant No.3 are totally absurd and there was no question of initiation of criminal proceedings on the basis of such claims.

17] It is also significant that before the two FIRs stood registered on 06.06.2020 and 28.06.2020, the Police Station Kotwali had twice issued notices to the applicant in Application Nos.420/2020 and 422/2020, in order to respond to the grievance sought to be raised by the non-applicant No.3. On both occasions, the said applicant had responded and placed copies of relevant documents on record, upon which no further action was taken. This was as far back as in the years 2015 and 2016. As noted above, even the Municipal Corporation has issued notice to the said applicant and upon the relevant papers being placed before the Officers of the Corporation, the non-applicant No.3 was advised to take appropriate steps before the Competent Civil Court.

18] In this backdrop, we are unable to appreciate how the Police Stations at Gadge Nagar and Kotwali in the City of Amravati could register the subject FIRs on the basis of the

cryptic oral report submitted by non-applicant No.3. The grievance sought to be raised by the non-applicant No.3 was not only absurd, but it was in the teeth of documents already available with the Police Station at Kotwali, Amravati.

19] It is also evident from the material available on record that none of the ingredients of the offences registered against the applicants were even *prima facie* made out against them. Yet, the FIRs stood registered. The learned counsel appearing for the applicants were justified in relying upon the judgment of the Hon'ble Supreme Court in the case of ***Devendra Vs. State of Uttar Pradesh*** (supra), wherein the Hon'ble Supreme Court has discussed the ingredients of the offence alleged against the accused and laid down the test that can be applied even at the stage of exercise of inherent power by the High Court under Section 482 of the Cr.PC, while considering quashing of an FIR of this nature. We are of the opinion that the case of the applicants is covered in their favour under the aforesaid judgment. Reliance placed on judgment of the Hon'ble Supreme Court in the case of ***T.T. Anthony Vs. State of Kerala and others*** (supra), is also

justified, because it is clearly laid down therein that more than one FIR cannot be registered for the same grievance or cause of action. In the present case, the grievance sought to be projected by the non-applicant No.3, leading to registration of FIR on 08.06.2020, in Police Station Gadge Nagar, was identical to the grievance raised in the subsequent FIR dated 28.06.2020, registered at Police Station Kotwali. Therefore, the present case is covered in favour of the applicants under the said judgment also.

20] It is significant that the Hon'ble Supreme Court in the case of *Indian Oil Corporation Vs. NEPC Ltd. and others reported in (2006) 6 SCC 736*, has taken note of the tendency of triggering criminal proceedings in disputes that are purely of civil nature, only with a view to entangle the alleged accused in the criminal proceedings, so as to bring about some kind of settlement between the parties. The said practice has been deprecated in the following words in the said judgment.

“13. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not

adequately protect the interest of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged. In G. Sagar Suri v. State of U.P. this Court observed : (SCC p. 643, para 8)

“It is to be seen if a matter, which is essentially of a civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which the High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice.”

21] We are of the opinion that in the present case, the non-applicant No.3 has sought to give the cloak of criminality to a so-called dispute, which could be at best be said to be a dispute of civil nature. We are of the opinion that the grievance sought to be raised by the non-applicant No.3, was not only absurd and unbelievable, but initiation of the criminal proceedings was rendered vexatious and malicious. We are of the clear opinion that

if the said proceedings are allowed to continue against the applicants, it would amount to an abuse of the process of law and that ends of justice will be met by quashing the said proceedings forthwith.

22] In view of the above, the applications are **allowed**.
The FIR No.445/2020 dated 08.06.2020, registered at Police Station Gadge Nagar and FIR No.188/2020 dated 28.06.2020, registered at Police Station Kotwali, Amravati, are quashed.

(VALMIKI SA MENEZES)

(MANISH PITALE, J.)

Vijay