

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

CRIMINAL APPLICATION (APL) NO. 1255 OF 2021

1. Nitesh s/o. Gangadhar Mahalle,
Age about 30 years, Occ. - Service,
R/o. 101, Anjaniputra Apartment,
Besides Dighori Flyover, Police Station
Wathoda, Nagpur.
2. Suraj s/o. Umeshrao Hinge,
Aged about 25 years, Occ. - Service,
R/o. Plot No.18, Block No.101, Srushti
Apartment, Ramana Road, Near Chand
Sawali Darga, Shri Gurudev Nagar,
Hanuman Nagar, Nagpur.
3. Sadanand @ Sandip s/o Vishnu Songanjir,
Aged about 26 years, Occ. - Service,
R/o. Plot No.56, Shivvikas Layout,
Bhawani Mandir Road, Pardi, Nagpur.
4. Pranali d/o. Gajanan Kadam
(Pranali w/o. Sandeep Rathod –
Name after marriage),
Aged about 25 years, Occ. - Business,
R/o. Plot No. 27, Nilkamal Nagar,
Narsala Road, Dighori, Nagpur.

---APPLICANTS

---VERSUS---

1. The State of Maharashtra,
Through Police Station Officer,
Nandanvan Police Station, Nagpur.
2. Dr. Zueb Hussain Haider,
Aged about 57 years, Occ. - Director
Seven Star Hospital, R/o. 804/6,
Mehendibag Road, Near Railway
Crossing, Premnagar, Dr. Ambedkar
Marg, Nagpur.

---NON-APPLICANTS

Mr. S. P. Sonwane, Advocate for the Applicants.
Mrs. M. A. Barabde, Additional Public Prosecutor for the Non-applicant/State.
Mr. P. S. Mohagaonkar and Mr. U. P. Dable, Advocates for the Non-applicant No.2.

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

DATE : 17.03.2022.

JUDGMENT : (PER - AMIT BORKAR, J.)

1. Heard.
2. **Rule.** Rule made returnable forthwith.
3. By this application under Section 482 of the Code of Criminal Procedure, the applicants are challenging registration of the First Information Report bearing No.417/2020 dated 29.05.2020 registered with the non-applicant No.1 – Police Station, consequent charge-sheet for the offences punishable under Sections 408, 420, 467, 468, 471, 477A read with Section 34 of the Indian Penal Code, and proceedings in Regular Criminal Case No.1842/2021 pending before the Chief Judicial Magistrate, Nagpur.
4. The First Information Report came to be registered against the applicants with the accusations that the applicants misappropriated amount of non-applicant No.2 Rs.6,22,690/- (Rs. Six Lakhs Twenty Two Thousand Six Hundred Ninety Only)

by forging signature of the concerned doctors. The Investigating Agency after completion of the investigation, filed charge-sheet against the applicants.

5. During pendency of the proceedings, the applicants and the non-applicant No.2 have arrived at mutual settlement. The applicants have filed on record Memorandum of Understanding dated 24.08.2021 wherein it has been stated that the applicants and the non-applicant No.2 have amicably resolved their dispute.

6. The non-applicant No.2 is present in the Court today and has stated before the Court that the applicants have handed over demand draft of the amount as agreed by the settlement and he has no objection for quashing the proceedings against the applicants.

7. We have carefully considered the allegations in the First Information Report and the material in the form of charge-sheet and we are satisfied that the allegations in the First Information Report and material in the form of charge-sheet are not sufficient to constitute the ingredients of the offence alleged against the applicants.

8. The decision of the Hon'ble Apex Court in the case of *Narinder Singh & others Vs. State of Punjab & anr.* reported in

(2014) AIR SCW 2065, makes it clear that the Court cannot declare to quash the First Information Report merely because the First Information Report incorporates a particular provision which is a serious offence or offence against society. The Court has to make an endeavour to find out whether the information in the First Information Report indeed discloses the ingredients of such offence and the Court can accept the settlement and quash the report/charge-sheet only after the Court is of the opinion that such an offence is unnecessarily incorporated in the First Information Report/charge-sheet.

9. From the perusal of the First Information Report and the material produced in the Court, we are satisfied that the ingredients of the offence under Sections 408, 420, 467, 468, 471, 477A of the Indian Penal Code are not fulfilled. Since the applicants and the non-applicant No.2 have mutually resolved their dispute, chances of conviction are bleak.

10. We therefore, satisfied that there is no impediment for quashing the First Information Report against the applicants.

11. We therefore, pass following order :

12. The First Information Report bearing No.417/2020 dated 29.05.2020 registered with the non-applicant No.1 – Police

Station, consequent charge-sheet for the offences punishable under Sections 408, 420, 467, 468, 471, 477A read with Section 34 of the Indian Penal Code and proceedings in Regular Criminal Case No.1842/2021 pending before the Chief Judicial Magistrate, Nagpur are quashed and set aside.

13. Rule is made absolute in the above terms. Pending application(s), if any, stand(s) disposed of.

JUDGE

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