

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1590 OF 2022

BHARAT HUSEN LOKHANDE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. M. A. Jahagirdar Shaikh, Advocate for the Applicant.

Mr. M.M. Nerlikar, APP, for the Respondent – State.

Mr. D.R. Adhav, Advocate for Respondent No. 2.

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CORAM : SMT. ANUJA PRABHUDESSAI &
R.M. JOSHI, JJ

DATE : JANUARY 10, 2023

PER COURT :

1. At the outset, learned Counsel for the Applicant seeks leave to amend the prayer clause 'B'. Leave granted. Amendment to be carried out forthwith.

2. With consent, heard finally at the stage of admission.

3. This is an application under Section 482 of Cr.P.C. for quashing FIR no. 25/2022 registered with Rahata Police Station and R.C.C. No. 280/2022 for the offences punishable under Sections 392, 504, 506 and 507 of the Indian Penal Code and Section 39 of the Maharashtra Money Lending (Regulation) Act, 2014 (for short 'Act of 2014').

4. We have perused the record and considered the submissions advanced by learned Counsel appearing for respective parties.

5. The aforesaid crime was registered pursuant to the first information report lodged by Respondent No. 2. The Respondent No. 2 was the owner of land under Gut No. 101 of village Nandur Khandala. The applicant entered into a sale transaction on 14.12.2020 whereunder he sold the said land to the applicant herein for total consideration of Rs. 3,00,000/-. The Respondent No. 2 has alleged that his wife had to undergo kidney operation and due to financial constraints he borrowed Rs. 3,00,000/- from the applicant herein. Respondent No.2 agreed to pay the said amount with interest. Respondent No.2 has alleged that he had executed sale deed dated 14.12.2020 in favour of the applicant only as security. Respondent No. 2 alleged that the applicant refused to accept an amount of Rs. 6,60,000/- offered by him towards repayment of the interest component and abused and threatened him. Based on these allegations, the aforestated crime has been registered against the

applicant.

6. The records reveal that the Respondent No. 1 had executed a sale deed in favour of the applicant and the said sale deed was duly registered before the Sub-Registrar. It is not in dispute that the Respondent No. 2 has not filed a suit for cancellation of the said sale deed, but the mother of Respondent no.2 has filed a suit claiming right of preemption. It is also not in dispute that on the basis of sale deed in question, land has been mutated in the name of the Applicant. These facts and circumstances would reveal that Respondent No. 2 has given a colour of criminal wrongdoing to a dispute which is essentially of civil nature. An offence under Section 392 has been registered against the applicant when there is absolutely no material to substantiate charge of theft much less robbery. The allegations leveled in the FIR as well as material collected in the course of investigation, even if accepted at its face value and in entirety, does not constitute offence under Section 392 of IPC or 39 of the Act of 2014. The present case is, therefore, squarely covered by illustration (1) & (3) in the case of State of Haryana Vs. Bhajan Lala,

reported in AIR 1992 SC 604. Hence, continuance of criminal proceeding against the applicant will be abuse of the process of law.

7. In the circumstances, the application is allowed in terms of prayer clause 'B'. Consequently, FIR no. 25/2022 registered with Rahata Police Station and R.C.C. No. 280/2022 for the offences punishable under Sections 392, 504, 506 and 507 of the Indian Penal Code and Section 39 of the Maharashtra Money Lending (Regulation) Act, 2014, are hereby quashed and set aside.

(R.M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J)