

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

CRIMINAL APPLICATION NO. 2485 OF 2022

Firoz Ramzan Shaikh

..APPLICANT

VERSUS

1. State of Maharashtra
2. Sachin Motilal Katariya

..RESPONDENTS

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Mr. R.P. Patwardhan, Advocate for applicant
Mr. A.R. Kale, A.P.P. for respondent no.1 – State
Ms. S.M. Zaware, Advocate for respondent n o.2

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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ
DATE : 12th JULY, 2023**

PER COURT :

1. This application, under Section 482 of Code of Criminal Procedure, has been filed for quashment of the charge-sheet filed in R.C.C. No. 732 of 2022 pending on the file of J.M.F.C., Ahmednagar arising from the First Information Report ('F.I.R.'), being Crime No.739 of 2021 registered with Kotwali Police Station, Dist. Ahmednagar for the offences punishable under Sections 420 and 406 read with Section 32 of the Indian Penal Code.

2. Heard.

3. The applicant is one of the co-accused in the said case. What can be gathered from the F.I.R. and police papers is that co-accused viz. -

Annasaheb Mhaske had an acquaintance with Respondent No.2 – informant. On 03rd August, 2021, co-accused – Annasaheb Mhaske went to the factory of the informant and told him to have with him some valuable antic articles. He induced the informant to pay him Rs.5 lakh and promised to pay in return double the amount i.e. Rs.10 lakhs within ten days. He however, failed to keep his word. The informant had, therefore, been after him, but in vain.

4. Learned A.P.P. and learned counsel representing Respondent No.2 – informant would submit that the applicant has criminal antecedents. Some crimes have been registered against him. Our attention has been adverted to the statements of wife of the informant and his friend. Supplementary statement of the informant was also adverted to show applicant's involvement in the crime in question. According to prosecution, a sum of Rs.5 lakhs received from the informant was paid by co-accused – Annasaheb Mhaske to the present applicant and as such, both of them were hand in gloves.

5. We have considered the submissions advanced. Perused the F.I.R. and related police papers. Admittedly, name of the applicant does not figure in the F.I.R. Although supplementary statement of the informant names the applicant, same is based on what he learned from the investigating officer. On close scrutiny of each and every police paper in the charge-sheet, we do not come across any material which could be converted into admissible piece

of evidence, even at least for framing of charge against the present applicant. In such situation, directing the applicant to stand trial would be an abuse of process of Court.

6. In view of above, criminal application is allowed in terms of prayer clauses [B] and [C].

(SANJAY A. DESHMUKH, J.)
SSD

(R.G. AVACHAT, J.)