

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

CRIMINAL APPLICATION NO.3005 OF 2021

Krushna s/o Bhaskar Kendre & anr. ... APPLICANTS

VERSUS

The State of Maharashtra & anr. ... RESPONDENTS

.....
Mr. V.B. Dhage, Advocate for applicants
Mr. P.G. Borade, A.P.P. for respondent No.1.
Mr. S.R. Bagal, Advocate holding for
Mr. B.N. Gadegaonkar, Advocate for respondent No.2.
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**CORAM : SMT. ANUJA PRABHUDESSAI AND
 R.M. JOSHI, JJ.**

DATE : 19th JANUARY, 2023

P.C. :

Taken up for final hearing with the consent of
learned counsel for the respective parties.

2. This is an application under Section 482 of the Code
of Criminal Procedure, filed by the aforesaid applicants to quash
First Information Report bearing Crime No.0243/2020,
registered with Malakoli Police Station, District Nanded and the
consequential criminal proceedings being R.C.C. No.86/2021,
pending on the file of learned Judicial Magistrate, First Class,
Loha, District Nanded for the offence punishable under Section

379 read with Section 34 of the Indian Penal Code.

3. Heard learned counsel for the applicants, learned A.P.P. for the State and learned counsel for respondent No.2. We have perused the records and considered the submissions advanced by learned counsel for the respective parties.

4. The aforesaid crime was registered pursuant to the First Information Report lodged by respondent No.2. He had alleged that, on 15/12/2020, he found that the electric motor of Moscow Company which was installed in his field was missing. He suspected that the said electric motor was stolen by these applicants. Hence he lodged the report against them for committing theft of the electric motor worth Rs.15,000/-.

5. In the course of the investigation, statements of several witnesses have been recorded. None of the witnesses have implicated these applicants. The electric motor is not recovered from these applicants. There is absolutely no material on record to indicate that these applicants were involved in committing theft of the electric motor.

6. In our considered view, the First Information Report as well as the material in support thereof do not disclose any cognizable offence against these applicants. Present case,

therefore, squarely falls under illustration (3) in the case of **State of Haryana & ors. Vs. Ch. Bhajan Lal [AIR 1992 SC 604]**, which provides for quashing of the criminal proceeding where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

7. Under such circumstances, the continuance of criminal proceedings would be sheer abuse of the process of Court. Hence, the application is allowed. The First Information Report bearing Crime No.0243/2020, registered with Malakoli Police Station, District Nanded and the consequent criminal proceedings being R.C.C. No.86/2021, pending on the file of learned Judicial Magistrate, First Class, Loha, District Nanded for the offence punishable under Section 379 read with Section 34 of the Indian Penal Code are hereby quashed.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

fmp/-