IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 242 OF 2021

Pankti Prabhulal Chauhan ..Applicant
V/s.
The State of Maharashtra and Anr. ..Respondents

Mr. Niranjan Mundargi a/w Keral Mehta i/b N.M. Nadar for the Applicant.
Ms. M.H. Mhatre, APP for the Respondent/State.
None for Respondent No.2.

CORAM : SUNIL B. SHUKRE, AND M.M.SATHAYE, JJ.

DATE : 30th MARCH 2023

JUDGMENT (Per : M. M. Sathaye J.):

1. Rule. Rule made returnable forthwith. learned APP waives service for Respondent No.1 State. Despite due service and filing vakalatnama, nobody appears for Respondent No.2.

2. This is an application under Section 482 of the Code of Criminal Procedure (‘Cr.P.C.’ for short) for quashing FIR No. 994 of 2019 registered with Chaturshrungi Police Station, Pune for the offences punishable under Sections 420, 467, 468, 471, 419 read with Section 34 of Indian Penal Code (‘IPC’ for short). Heard learned Counsel for the Applicant, who argued in support

of the Applicant's case and invited our attention to relevant documents on record. Heard Ld. APP.

3. Perusal of the FIR dated 11.12.2019 shows that Respondent No.2, who is a Bank Manager has filed the same, alleging that the Applicant along with her husband (Aditya Nandkumar Sethia) had raised a Bank loan for purchase of landed property from one Mr. Kinjal Bhupendra Dalal and had submitted the documents necessary for raising the loan. It is alleged that out of total consideration shown to be agreed under the documents, Rs.3,08,75,000/- were paid in favour of Kinjal Bhupendra Dalal as the amount of loan disbursement through RTGS. It is further alleged that at the time of such disbursement, the Applicant along with her husband and said Kinjal Dalal had submitted original documents of transfer of the landed property in the Bank and have also executed necessary mortgage deed which is registered. It is alleged that it was expected in the usual course of business from the Applicant and her husband to submit sale deed executed from the said Kinjal Dalal, however, such sale deed was not executed and submitted with the Bank and therefore, repeated inquiries were made. However, the request was ignored and therefore, suspicion arose.

4. It is further alleged that when the amount paid in the account of Shri. Kinjal Dalal was traced, it was found that large

sums therefrom were transferred from his account in favour of the third persons for repayment of vehicle loan, to Urban Credit Co.Operative Societies or withdrawn as cash. It is also alleged that the brother of Kinjal Dalal filed a Criminal Case bearing CR No. 831/2019 against the Applicant's husband and three others and after reading the said complaint, it was realised that the Applicant's husband had gotten up an imposture claiming to be Kinajl Bhupendra Dalal who executed documents and they were submitted to the Bank. It is alleged that when inquiries were made with the Applicant and her husband, they avoided to answer and therefore, the FIR is filed.

5. On inquiry with learned APP, we are informed that no chargesheet has been filed so far in the matter. No reply is filed by Resp. No. 1 State in this application.

6. We are also informed by the learned counsel for the Applicant that the main accused Aditya Nandkumar Sethia (Applicant's husband) has committed suicide and is no more. Learned Counsel for the Applicant submitted that in fact she and her husband have been cheated and duped themselves and the whole transaction involved in the matter, has resulted into horrible tension leading to Applicant's husband committing suicide. Be that as it may. We are bound by law to consider averments in the FIR at its face value.

7. Careful reading of the FIR shows that it is not the case in the FIR that any loan disbursal amount has come in the account of the Applicant or even her husband. On the contrary, it is the case in FIR itself that the Applicant and her husband have submitted their Income Tax documents and other documents for raising of loan for purchase of landed property and had raised loan themselves. It is common ground before us that the Applicant is not even party to the registered document of sale allegedly executed by an imposture in favour of the Applicant's husband. It is also common ground that for the transaction allegedly executed by an imposture, an amount of Rs.1,19,00,000/- has been paid by Applicant's husband himself by cheque as part consideration and thereafter, the loan amount has been disbursed.

8. In the aforesaid facts and circumstances and with the avements in the FIR, as stated above, in our considered view no case of cheating by deceiving or fraudulent or dishonest inducement is made out as contemplated in section 415 of the IPC. Since, the Applicant is not party to the document of agreement to sale in question, there is also no case made out against her for forgery for the purpose of valuable security as contemplated under Section 467, 468 and 471 of the IPC. Since, according to the FIR, the impersonation is by Shri. Kinjal Dalal

alone and not by the Applicant, the case under Section 419 of the IPC, is also not made out against the Applicant.

9. Therefore, with the averments as they stand in the FIR, we are of the considered view that this case falls in one of the categories provided in the case of ***State of Hariana v/s. C. Bhajan Lal reported in AIR 1992 SC 604*** and it will be abuse of process of law if the Applicant is permitted to be prosecuted any further.

10. In the net result, we pass following order:

(i) Criminal Application is allowed.

(ii) The FIR in Crime No. 994 of 2019 registered with Chaturshrungi Police Station, Pune for the offence punishable under Sections 420, 467, 468, 471, 419 read with Section 34 of IPC, is hereby quashed and set aside only to the extent of it arraigns the Applicant in the crime.

(iii) Rule is made absolute in the above terms. No order as to costs.

(M. M. SATHAYE J.) **(SUNIL B. SHUKRE J.)**