

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.4162 OF 2022

- | | | |
|---|---|----------------|
| 1. Santosh Rangnath Chinchwade, |] | |
| Age : 48 years, Occ. : Service, |] | |
| 2. Roshana Santosh Chinchwade, |] | |
| Age : 40 years, Occ. : Business, |] | |
| Both residing at : 42, Celestia Building, |] | |
| Baner-Balewadi Road, Near Prathamesh |] | |
| Park, Baner, Pune – 411 045 |] | .. Petitioners |

Versus

- | | | |
|---|---|----------------|
| 1. State of Maharashtra, |] | |
| Through P.I., Sinhgad Road Police Station, Pune |] | |
| 2. Rames Dilip Gaikwad, |] | |
| Age : 44 years, Residing at : K-704, |] | |
| Sun Universe Society, Narhe, Pune. |] | .. Respondents |

ALONG WITH

**INTERIM APPLICATION NO.95 OF 2023
INTERIM APPLICATION NO.96 OF 2023
INTERIM APPLICATION NO.97 OF 2023
INTERIM APPLICATION NO.98 OF 2023
INTERIM APPLICATION NO.99 OF 2023
INTERIM APPLICATION NO.103 OF 2023**

- | | | |
|---------------------------|---|--------------|
| Sadashiv Kulkarni |] | .. Applicant |
| Yuvraj Patil Dhankude |] | .. Applicant |
| Sandeep Ananda Tamhane |] | .. Applicant |
| Jayant Nilkanth Limaye |] | .. Applicant |
| Baban Bajaba Raskar |] | .. Applicant |
| Pratik Dadasaheb Ranawade |] | .. Applicant |

Mr. B.S. Phad for the Petitioners.

Mr. J.P. Yagnik, APP for Respondent No.1-State.

Mr. Sushant Valimbe for Respondent No.2.

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

DATE : 27TH MARCH, 2023.

ORAL JUDGMENT : { Per Sunil B. Shukre, J. }

1. RULE. Rule made returnable forthwith. Heard finally by consent of learned counsel for the petitioners, learned counsel for respondent no.2 and learned APP for the respondent-State.

2. By this petition, the petitioners, who are accused in Crime No.134 of 2022, registered at Sinhgad Road Police Station, Pune City are seeking relief of quashing of the FIR registered in the said crime.

3. The allegations made against both these petitioners are that of doing certain acts with dishonest intention, so as to attract offence of cheating. It is alleged that, initially both the petitioners earned trust and confidence of the respondent no.2-complainant and made him believe that the petitioners were reliable persons, who fulfill whatever promises they make to various persons, including the complainant. It is further alleged that later on petitioners showed their true colour and by giving false inducement of return of huge profits to the complainant, the petitioners made the complainant part with certain sums of monies, totaling to Rs.1,20,96,000/-, in favour of the petitioners and the promise so given by them was not fulfilled. Out of this amount, however, some amount, totaling to Rs.43,87,910/-, has been returned by the petitioners to the complainant, but substantial sum of money has been retained by the petitioners.

4. These allegations, in our considered view, prima facie, show presence of dishonest intention on the part of the petitioners and, therefore, the offences, which have been registered against them, punishable under Sections 420 and 406, r/w. 34 of IPC, cannot be said to be not prima facie made out, if the allegations are taken at their face-value. This is because of the fact that even if some money has been returned subsequently, it was, prima facie, only by way of an afterthought, and the offence of cheating had been indeed constituted the moment false promise was made with dishonest intention, at the beginning of the transaction in question.

5. We are therefore, not inclined to interfere in the matter. The petition stands dismissed. Rule is discharged.

6. All interim applications are disposed of in terms of the final order.

[M.M. SATHAYE, J.]

[SUNIL B. SHUKRE, J.]