

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO. 167/2023
WITH
CRIMINAL APPLICATION NO. _____/2023

Mr. Roshan s/o. Ramesh Kawle,
Aged about 39 years, Occ. Private,
R/o. Takal Ghat, Tah. Hingna,
Dist. Nagpur.

.....APPLICANT/ PETITIONER

VERSUS

1. State of Maharashtra,
through its Secretary, Department of Home,
Mantralaya, Mumbai-32.
2. Commissioner of Police, Nagpur City,
Nagpur.
3. Superintendent of Police, Nagpur
Rural, Nagpur.
4. Police Inspector, Local Crime Branch,
Nagpur Rural, Nagpur.
5. Police Station Officer, Police Station,
Katol, Nagpur Rural, Nagpur.
6. Deputy Commissioner of Police,
Economic Offences Wing, Crime
Branch, Nagpur.
7. Dinesh Gunwant Tule,
Age 46 yrs., Occ. Agriculture,
R/o. Bhishnur, Tah. Narkhed,
Dist. Nagpur.
8. Shailesh Daburkar,
Age 49 yrs., Occ. Private,
R/o. Takalghat, Tah. Hingna,
Dist. Nagpur.

9. Sau. Sheetal Dinesh Tule,
Age.---- Occ. Household,
R/o. Bhishnur, Tah. Narkhed,
Dist. Nagpur.
10. Gajjusingh Basewar (Deceased),
R/o. Katol, Dist. Nagpur.
11. Akash Bapudas Mahant,
Age 54 yrs., Occ. Agriculture,
R/o. Lingapardi, Katok, Nagpur.

**(Non-applicant/Respondent Nos. 8 to 11
has been added as per Court's order
dated 10.07.2023)**

12. Police Station Officer,
MIDC, Buttibori Police Station,
Nagpur.

**(Non-applicant/Respondent No.12 has been
added as per Court's order dated 10.07.2023)**

.....NON-APPLICANTS/RESPONDENTS

Mr. R. R. Vyas, Advocate for petitioner.

Mr. V. A. Thakare, APP for respondent Nos. 1 to 6.

Ms. Apurva D. Kalhe, Advocate for respondent Nos. 7 to 11.

**CORAM : VINAY JOSHI AND
VALMIKI SA MENEZES JJ.**

DATE : 10.07.2023

CRIMINAL APPLICATION NO. /2023

Heard.

2. This is an application seeking amendment on account of
subsequent event of registration of First Information Report ('FIR').

Initially, this petition was filed by the informant seeking direction to the Police for registration of crime on the basis of his report dated 05.02.2022. We have issued notices to the respondents, on which Police Station MIDC, Butibori, Dist. Nagpur has registered FIR on 05.07.2023 vide Crime No. 242/2023 for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code. It being a private monetary transaction, the parties have settled the dispute out of the Court. In the circumstances, on account of settlement petitioner/applicant do not want to go on with the prosecution, but seeks the prayer for quashing FIR on account of settlement.

3. Having regard to the nature of allegation and the factum of settlement, application is allowed. Necessary amendment be carried out forthwith.

4. On oral request, the applicant/petitioner is permitted to add concerned Police Station as non-applicant/respondent No. 12.

5. Amendment be carried out forthwith.

CRIMINAL WRIT PETITION NO. 167/2023

JUDGMENT : (PER VINAY JOSHI, J.)

1. Rule. Rule made returnable forthwith. Heard the learned counsel appearing for the parties finally.

2. This petition was initially for registration of crime which was converted into for quashing of the FIR vide Crime No. 242/2023 for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code on account of settlement. The petitioner has put grievance to the Police that the respondent Nos. 7 to 11 have accepted huge amount under the guise of assuring him in getting contract of transport of buses. However, neither money was refunded nor the contract was assigned, therefore, the petitioner initially urged for registration of offence punishable under Section 420 read with Section 34 of the Indian Penal Code. Due to indulgence of this Court, during the pendency of the petition, offence was registered on 05.07.2023.

3. No sooner the offence was registered, there was settlement between the petitioner and accused (respondent Nos. 6 to 11), as they agreed to repay the sum which they received.

4. The parties have executed the compromise deed to that effect which is marked as Exh. XI to this petition. The compromise deed is

signed by the petitioner, respondent Nos. 7, 9 and 11. Towards settlement, the respondent No.7 has paid Rs. 35 lakhs in cash to the petitioner and handed over four post dated cheques total amounting to Rs. 50 lakhs in favour of the petitioner. In consideration of cash amount and post dated cheques, the petitioner agreed to give his no objection for quashing of FIR. The petitioner as well as respondent Nos. 7 are present before us and identified by their respective counsel. Both have agreed about the contents of compromise. Particularly the petitioner has given consent rather urged for quashing of the concerned FIR on account of settlement.

5. Respondent No. 7 Dinesh Tule has handed over four post dated cheques drawn on account of Anushka Poultry Farm, of which he is a proprietor. Respondent No.7 made statement before us that all four cheques as described in the compromise deed would be honoured. We would record his statement as an undertaking given to this Court.

6. At this juncture, we brought to the notice of the petitioner that due to such type of transaction, the Police Machinery was required to register crime, start investigation and to follow the requisite formality. The learned counsel appearing for the petitioner upon instruction would submit that the petitioner is willing to deposit Rs. 1 lakh for unnecessarily rotating entire government machinery.

7. Since the matter is amicably settled and the petitioner do not

wish to continue the criminal prosecution, there is no purpose in continuing the same. Moreover, the transaction is of commercial nature in between private parties and thus, does not have the anti-social impact. Continuation of such prosecution amounts to abuse of the process of the Court. In view of that, we deem it appropriate to invoke our inherent powers. Application is allowed. We hereby quash and set aside FIR vide Crime No. 242/2023 for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code registered with Police Station MIDC, Butibori, Dist. Nagpur.

8. The petitioner shall deposit Rs. 1 lakh towards cost to the High Court Bar Association, Nagpur Bench, Nagpur on or before 13.07.2023.

9. Matter be placed for noting compliance on 14.07.2023.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)

Gohane