

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

CRIMINAL APPLICATION (APL) NO. 444 OF 2023

- APPLICANTS :**
1. Manish S/o Kisangopal Sharma,
Aged : 46 years, Occ : Private,
 2. Mona W/o Manish Sharma,
Aged : 46 Years, Occ :- Private

Both R/o Plot No.54, Chunaoli,
Bangare Mohalla, Itwari, Nagpur.

V E R S U S

- NON-APPLICANTS :**
1. State of Maharashtra
Through P. S. O. Tahsil
District Nagpur.
 2. Rohit Suresh Punayani,
Age - 36 Years, Occ - Private
R/o Plot No.138,
East Wardhaman Nagar,
Near Radhakrishna Hospital
Nagpur.
 3. Amit S/o Suresh Punayani,
Age - 46 Years, Occ - Private
R/o Plot No. 138,
East Wardhaman Nagar,
Near Radhakrishna Hospital
Nagpur.
 4. Gulam Jilani S/o Abdul Kadar Lashkari,
Age - 48 Years, Occ - Private,
R/o Behind Central Bank
Bangali Panja, Chand Mohalla,
Maskasath, Nagpur.

Shri N. P. Singhania, Advocate for applicants.

Shri V. A. Thakare, Additional Public Prosecutor for Non-applicant No.1.

Ms. Rohini Khapekar, Advocate for respondent Nos.2 to 4.

CORAM: VINAY JOSHI AND
BHARAT P. DESHPANDE, JJ.
DATE : 18/04/2023.

ORAL JUDGMENT : (PER VINAY JOSHI, J.) :

1. **Admit.** Heard finally with the consent of learned counsel appearing for the parties.
2. This is an application seeking to quash FIR in Crime No.0712/2021 registered for the offences punishable under Sections 420 and 406 of the Indian Penal Code, under Sections 4 and 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and under Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 on account of settlement between the parties.
3. It is the informant's case that applicant No.1 was running Bhis Scheme in which non-applicant Nos.2 to 4 have invested certain amount. However, after specified period, amount has not been returned, therefore the report of cheating and breach of trust has been filed. The parties have settled the dispute amicably out of Court. It is informed that partial payment has been made to Non-applicant Nos.2 to 4 – Investors whilst a post dated cheque for remaining amount has been handed over.

4. Since the matter is settled, Non-applicant Nos.2 to 4 have filed an affidavit stating about the settlement and their no objection to quash the First Information Report. Today, Non-applicant No.2 and 3 are present before us, identified by their Advocate Ms. Rohini Khapekar. We have enquired with them on which they stated about settlement and no objection to quash First Information Report.

5. Since the post dated cheque has been issued, we have asked non-applicants to re-think whether before realization of cheque, criminal prosecution can be quashed on account of settlement. Both non-applicant Nos.2 and 3 reiterated their stand that the matter is settled, they had confidence on the applicant No.1 and therefore, urged to set aside the First Information Report.

6. We have brought to the notice of the applicants that due to their alleged activity, the police are required to register First Information Report and commence investigation. At this juncture, applicants' counsel, upon instructions, undertakes to deposit the costs of Rs.10,000/-.

7. The offence is of a personal nature arising out of money transaction. It cannot be termed as anti-social offence. Since

applicant No.1 was running Bhis Scheme, we have asked the Investigating Officer to verify whether there are other investors who are similarly cheated. The Investigating Officer has filed reply that they did not find any other investor relating to present crime. Since the matter is settled, we deem it appropriate to invoke our inherent jurisdiction.

8. In view of above, application is allowed. We hereby quash and set aside the FIR in Crime No.0712/2021 registered for the offences punishable under Sections 420 and 406 of the Indian Penal Code, under Sections 4 and 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and under Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

9. The applicants shall deposit the costs of Rs.10,000/- to the High Court Bar Association, Nagpur on or before 21/04/2023. We hereby made it clear that quashing of this FIR would not preclude the police authority to register FIR if some other investors come forward.

10. The matter be placed for compliance on 24/04/2023.

[BHARAT P. DESHPANDE, J.]

[VINAY JOSHI, J.]

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