

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

CRIMINAL APPLICATION (ABA) NO.823 OF 2022

Vivek s/o Kailas Nagpure

vs.

State of Maharashtra

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. S.N.Nandeshwar, Advocate for applicant.
Mr. A.M. Kadukar, APP for respondent.
Mr. R.S.Nayak, Advocate to assist the prosecution.

CORAM : ANIL L. PANSARE J.

DATE : 09/01/2023

1. Heard.
2. On previous date i.e. on 2nd January 2023, the following order came to be passed:

“Heard for some time. The basic allegation is that the applicant has forged Sale Deed and power of attorney in respect of plot No.66 and 67 admeasuring 2500 sq.ft. situated at Mouja Bharatwada, Tahsil and District Nagpur.

2. *The owner of these plots is shown to be Premlata. The applicant has obtained power of attorney and has sold these plots to the informant. The allegation, however, is that the plots do not exist.*

3. *The most crucial allegation is that Premlata has purchased the plots in question on 21/09/1990. Premlata expired on 06/10/2019 and that the applicant has executed power of attorney on 22/11/2019 i.e. subsequent to the death of Premlata.*

4. *To counter these allegations, learned counsel for the applicant submits that in fact, he himself has been cheated by the mediator/agent who allegedly projected one lady as Premlata and got the power of attorney executed on 22/11/2019.*

5. *The learned counsel for the applicant submits that the applicant had been to the Vathoda Police Station for lodging FIR, but the SHO refused to register FIR. These submissions did not find place in the application. The applicant therefore, will have to file affidavit to that effect.*

Investigating Officer to remain present on next date.

6. *Stand over to 09/01/2023”.*

3. Pursuant to the said order, the applicant has filed additional affidavit mentioning therein, in para 7 that the applicant approached Wathoda Police Station twice as he is residing in the jurisdiction of Wathoda Police Station for lodging report against Premlata Shriniwas and Kannaiyya Dhakate. Wathoda Police Station denied to register the FIR on the ground that location of the plots is not within its jurisdiction.

4. The learned APP submits that the reply indicates that the applicant was informed of the reasons for not registering FIR. Despite such fact, the applicant has not approached Kalmana Police Station within whose jurisdiction the plots under question are located.

5. In my view, the conduct of the applicant would lead to rejection of present application. The applicant has sold two plots bearing nos. 66 and 67 not owned by Premlata but by different persons. The applicant is playing card of the victim. According to

him, one mediator Kannaiyya had introduced a lady in the name of Premlata and made the applicant to enter into transaction in respect of the plots in question. He has allegedly paid Rs. Eight lakhs to Kannaiyya. The applicant thereafter, after two years, has sold these two plots to the informant. The informant came to know that the plots in question are owned by one Suresh Khandait and Mr. Manohar Zade. Accordingly, FIR came to be lodged. In the circumstances, if the applicant is indeed a victim, he ought to have approached appropriate police station well in time.

6. The FIR has been lodged with the Police Station on 14.10.2022. The applicant ought to have approached concerned Police Station in October 2022. If not at that time, immediately thereafter. The applicant has not stated before the learned Sessions Judge that they had approached Kalamana Police Station nor has he pleaded so in the present application. It was only after passing order dated 2.1.2023, the applicant has now filed additional affidavit. The additional affidavit is silent on the point as to why the applicant could not approach officials of Kalamana Police Station. The learned counsel for the applicant submits that he had

approached Kalamana Police Station but, the Police Station Officer refused to register FIR. The statement, however, does not find place in the additional affidavit. Thus, the applicant is modifying his stand to suit his claim. Prima facie, the applicant is aware of the actual status and that correct facts could be ascertained in custodial interrogation of the applicant.

7. In view of the above observations, interim relief cannot be confirmed. No case is made out to confirm interim relief. Hence, the application is dismissed.

JUDGE

Signed By: MUKUND
LAXMANRAO AMBULKAR
Private Secretary

Signing Date: 09.01.2023 18:10