

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

CRIMINAL APPLICATION [APL] No. 1644/2022.

Sunil s/o Sagarmal Agrawal,
Aged about 62 years, Occupation -
Business, resident of 1334, Deshpande
Layout [East], Wardhaman Nagar,
Nagpur 440008.

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APPLICANT.

VERSUS

1.State of Maharashtra,
through Police Station Officer,
Police Station, Ganeshpeth,
Nagpur.

2.Piyush s/o Vinod Fattepuria,
resident of 142, Farm Land,
Flat No.303, Sumatinath Apartment,
Ramdaspath, Nagpur.

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NON-APPLICANTS.

Mr. J.M. Gandhi, Advocate for the Applicant.
Mr. N.R.Rode, A.P.P. for Non-applicant No.1/State.
Mr.H.N. Verma, Advocate for Non-applicant No.2.

CORAM : VINAY JOSHI AND

BHARAT P. DESHPANDE, JJ.

DATE : MARCH 24, 2023.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Considering the controversy involved in the matter and by consent of the learned Counsel appearing for the parties, Criminal Application is taken up for final disposal.

Admit.

2. This is an application seeking to quash the first information report bearing Crime No.371/2022 registered with Ganeshpeth Police Station, Nagpur for the offence punishable under Section 381 read with Section 34 of the Indian Penal Code, to the extent of the applicant - Sunil Agrawal.

3. The non-applicant no.2 was indulging into sale of papers in large scale. He came across that a theft of paper bundles occurred at his godown. It was revealed that co-accused Vishnu, who is an

auto-driver has stolen paper bundles and sold it to the applicant, who is a trader.

4. The applicant came before us by contending that he is merely a trader, has purchased the paper bundles from open market. He was not aware that it was a stolen property. No sooner he came across that the goods were owned by the informant, he has returned all the goods to him. The applicant stated that since the informant has received his goods, the later has no grievance against him.

5. In pursuance to the notice issued by this Court, the informant has appeared before us and filed an affidavit affirming the fact that he has received the goods and do not wish to prosecute against the applicant. Today the informant is present before the Court and has accepted about the settlement and his unwilling to prosecute against the applicant.

6. The offence was about a theft by a servant or clerk. The particular allegations are against the co-accused, an auto-rickshaw

Rgd.

driver, who has stolen the property. The police have not invoked the provisions of Section 411 of the Indian Penal Code against the applicant. Apart from merits, the matter is settled in between the applicant and non-applicant no.2. The offence cannot be termed as heinous or antisocial. Having regard to the peculiar facts, we are inclined to exercise our inherent jurisdiction, as continuation of trial would be an exercise in futility.

7. In view of above, Criminal Application is allowed and disposed of. The first information report bearing Crime No.371/2022 registered with Ganeshpeth Police Station, Nagpur for the offence punishable under Section 381 read with Section 34 of the Indian Penal Code, is hereby quashed and set aside to the extent of applicant - Sunil Sagarmal Agrawal only.

JUDGE

JUDGE