

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

CRIMINAL APPLICATION (APL) NO. 1662 OF 2022

Rakesh Sudhakar Mate and another vs. State of Maharashtra and another

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

Court's or Judge's Orders.

Mr. H. S. Chitaley, Advocate for applicants.
Mr. V. A. Thakare, APP for respondent No.1 State.

**CORAM : VINAY JOSHI AND
BHARAT P. DESHPANDE JJ.**

DATE : 08/03/2023

By way of present application, both the applicants are seeking to quash the FIR bearing No.113/2022 dated 17/02/2022, registered at Police Station, Hudkeshwar, District – Nagpur.

2. Heard learned counsel for the applicants and learned APP for the respondent State. Learned counsel for the applicants would submit that except visit to the house of the complainant/informant, there is no allegation against the applicants, so as to register the FIR against them for the said offence.

3. The FIR is lodged on 17/02/2022, mainly against the original accused Nos.1 and 2, whereas

the applicants in the present application are arrayed as accused Nos.3 and 4.

4. Learned APP has informed that investigation is almost completed and invited our attention to the statement made by the witness, namely, Manish who is referred in the FIR as one of the friend of the complainant.

5. Except the statement of Manish, which has also reference to visit of the applicants to the house of the complainant only to inquire as to whether they are ready to sale the plot to accused No.1, there is absolutely no other allegations which are pointed out in the entire investigation.

6. Though the present applicants are allegedly partners of accused No.1 in the business activities, their involvement in the present offence is not at all made out, as far as Section 384 read with 34 of the IPC is concerned.

7. The entire FIR/complaint mainly reference to one visit of these applicants to the house of the complainant only to inquire about his intention to sale the plot to accused No.1. Except such reference,

their involvement even with the aid of Section 34 of the IPC is not made out.

8. We are convinced that continuing a prosecution against applicant Nos.1 and 2 in view of the material collected by the prosecution, would be abuse of process of law.

9. Considering the above facts, we are inclined to quash the FIR only against applicant No.1– Rakesh Sudhakar Mate and applicant No.2 – Harish Sudhakar Mate.

10. Accordingly application stands allowed as per prayer clause 'A' which reads thus :-

“A. Quash and set aside the First Information Report dated 17.02.2022 an offence under Section 384, 34 of the Indian Penal Code, 1860 registered with Respondent No.1–Police Station Hudkeshwar, Nagpur. At Annexure A.”

JUDGE

JUDGE