



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

903 CRIMINAL APPLICATION NO. 4115 OF 2024

RAMESH BODHRAJ NAGPAL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicants : Mr. Satyajit Santosh Bora
APP for Respondent No. 1/State : Mr. G.A. Kulkarni
Advocate for Respondent No. 2 : Mr. Mantri Parikshit S.

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CORAM : SMT. VIBHA KANKANWADI &
R. W. JOSHI, JJ.

DATE : 14.11.2024.

PER COURT :

1. The present application has been filed to invoke the inherent powers of this Court under Section 482 of the Code of Criminal Procedure (for short "Cr.P.C."), for quashing the First Information Report (for short "FIR"), vide Cr. No. 80 of 2024, registered with Satara Police Station, District Chhatrapati Sambhajinagar, which was filed against the present applicants for the offence punishable under Sections 406, 420, 409 read with Section 34 of the Indian Penal Code (for short "I.P.C.").

2. It appears that before the matter can be taken up for hearing there was compromise and the memorandum of understanding appears to have been executed between the applicants and respondent No. 2. It is then stated that the amount is also transferred. In fact, as per the FIR the present applicants company had raised a residential project. Respondent No. 2 is acting as a President of the Co-Operative Housing Society and those residential flats/Row Houses, were constructed by the applicants company. It is then stated that from each of the flat owners and the Row Houses owners one time maintenance amount was collected at the time of agreement to sale and there was a stipulation that after the Society is formed, the said amount would be transferred to the Society. According to respondent No. 2 the amount of Rs. 2,92,31,712/- has been so collected but that amount has not been given. Respondent No. 2 had made correspondence with the Sub Registrar of Co-Operative Societies and the said authority by letter dated 18.02.2019 and 03.03.2023 had directed the applicants to transfer the said amount, still the amount was not transferred. Now in the memorandum of understanding it is stated that certain flats have not yet been

sold and therefore, in respect of whatever flats & Row Houses have been sold the amount that was collected and then now transferred is Rs. 2,21,00,000/-.

3. The parties appeared before the learned Registrar (Judicial) in view of our directions. The learned Registrar, (Judicial) has verified the contents, as well as the verification of the parties have been done. He submitted the report on 13.11.2024. Therefore, in view of the compromise and the fact that the parties are served, respondent No. 2 has no objection for quashing the FIR against the present applicants.

4. The applicants are not disputing that they were directed by the Sub Registrar, Cooperative Societies to transfer the said amount and the fact remains that now after the FIR has been lodged the said amount has been transferred and therefore, certainly the machinery i.e. the police machinery as well as the judicial machinery have been used in this matter and therefore, the cost is required to be imposed on the applicants.

5. With the above observations we proceed to pass

following order :

ORDER

(I) The Criminal Application stands allowed.

(II) The FIR vide Crime No. 80 of 2024 dated 20.02.2024, registered with Satara Police Station, District Chhatrapati Sambhajanagar, for the offence punishable under Sections 406, 420, 409 read with Section 34 of the Indian Penal Code stands quashed and set aside against the applicants Nos. 1) Ramesh Bodhraj Nagpal and 2) Neelkanth Ramesh Nagpal.

(III) The applicants are directed to deposit the amount of Rs. 25,000/- (Rupees Twenty Five Thousand Only) each with the High Court Legal Services Authority, Bench at Chhatrapati Sambhajanagar, within a period of one week and this condition will be condition precedent for quashing of the FIR.

(IV) Disobedience of this condition would result in reviving of the First Information Report.

(R.W. JOSHI)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE