

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**WRIT PETITION NO. 504 OF 2024**

Nikunj Desai and anr. ... Petitioners

Versus

The State of Maharashtra ... Respondent

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Mr. Kushal Mor a/w Tanmay Karmarkar i/b Atishay Jain for the  
Petitioner.

Ms. M. M. Deshmukh, APP for the State.

Mr. D. S. Sanap, API, Manpada Police Station, Thane.

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**CORAM : PRAKASH D. NAIK &  
N.R. BORKAR, JJ.**

**DATED : 20.02.2024**

**P.C. :-**

Learned Advocate for the petitioners seeks leave to  
amend to add the original complainant as a party respondent.  
Leave granted. Amendment to be carried out forthwith.

2. The petitioners are challenging the FIR dated 21.04.2017  
registered with Manpada Police Station for offences under  
Sections 409, 420 of the Indian Penal Code. Apparently, private  
complaint was filed by the complainant, in which direction were  
issued under Section 156(3) of Cr.P.C.

3. On completing investigation, report was filed before the  
Court opining that the dispute is of a civil nature. Learned

Magistrate, First Class, (3<sup>rd</sup> Court), Kalyan vide order dated 06.01.2023 directed further investigation.

4. It is submitted that the complaint has filed a civil suit for recovery of the same amount, which is subject matter of the proceedings. Learned Civil Judge Senior Division, Kalyan vide order dated 17.07.2019 has granted unconditional leave to defend the suit.

5. Issue notice to the respondent No. 2, returnable on 27.03.2024.

6. In the meantime, no coercive action be initiated against the petitioners.

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signed by  
MANGALTAI  
JAYWANT  
JADHAV  
Date:  
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**( N.R. BORKAR, J.)**

**(PRAKASH D. NAIK, J.)**