

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 802 OF 2024

Bomi Rustamji Karanjia and anr. ... Petitioners

Versus

The State of Maharashtra and anr. ... Respondents

Mr. Arjun Kadam a/w S. R. Nargolkar a/w Neeta Patil for the
Petitioner.

Ms. Rutuja Ambekar, APP for the State.

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

DATED : 13.03.2024

P.C. :-

1. Petitioners are challenging the FIR dated 17.12.2023 registered with Dindori police station vide FIR No.626 of 2023 for offence under Sections 420, 406 r/w 34 of the Indian Penal Code.

2. The grievance of the complainant appears to be in respect of taking payment of Rs. 49,99,800/-. The boiler was not delivered in accordance with the order placed by the complainant.

3. Whereas, learned counsel for the petitioners submitted that the dispute is purely of a civil nature and relates to

contractual obligation between the parties. The entire amount towards consideration was not parted by the complainant and in fact the complainant had communicated to the accused company that they are not in a position to make further payment. In these circumstances, the delivery of the boiler was not made to the complainant.

4. The petitioners are protected by the order under Section 438 of Cr. P. C.

5. Issue notice to respondent No.2, returnable on 12.06.2024.

6. Since the petitioner No.1 is senior citizen aged about 75 years, the Investigating Officer shall not summon him for the purpose of interrogation till further orders.

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)