



Judgment

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

CRIMINAL APPLICATION (APL) NO. 477/2021

1. Shri Vaibhav Suryakant Jaipuria,
Aged about 48 yrs., Occ. Business,
R/o. 50, Jaipuria House, Balraj Marg,
Dhantoli, Nagpur-440012.
2. Shri Sanjay Avtar Kaul,
Aged about 56 yrs., Occ. Service,
R/o. Flat No.101, Plot No.4,
Matrukrupa Apartments, Swawlambi
Nagar, Nagpur 440022.

... **APPLICANTS**

VERSUS

1. The State of Maharashtra,
Police Station Rana Pratap Nagar,
Dist. Nagpur, through the Station
Incharge.
2. Mr. Mahendra Sahebrao Sirsat,
aged about 46 yrs., Occ. Yog Guru,
3. Mr. Suryakant Sahebrao Sirsat,
Aged about 48 yrs., Occ. Agriculture/
Business,

Both R/o. Plot No.98, Nav Nath Society,
New Somalwada, Nagpur.

... **NON-APPLICANTS**

Mr. S.P. Bhandarkar, Advocate for applicants.
Mr. S.S. Doifode, Additional Public Prosecutor (APP) for non-
applicant No.1.
Mr. A.A. Naik, Advocate for non-applicant Nos. 2 & 3.

**CORAM : VINAY JOSHI AND
MRS. VRUSHALI V. JOSHI, JJ.**
DATE : 29.04.2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

2. **Admit.**

3. This is an application seeking to quash First Information Report ("FIR") vide crime No. 259/2020, registered with Police Station Rana Pratap Nagar, Nagpur for the offence punishable under Sections 406, 420 read with Section 34 of the Indian Penal Code on account of settlement.

4. The informant was desirous to purchase a Pent-house. The informant was introduced with the applicants who are indulging into construction business. Both of them agreed to sell Pent-house in consideration of Rs.3 crores. Out of said transaction, the informant has paid sum of Rs. 95 lakhs, however the transaction was not materialized. Rather it is informant's case that despite accepting

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huge partial consideration, the applicants have avoided to executive sale-deed and thus, offence of breach of trust and cheating.

5. The parties have mutually settled the dispute by entering into memorandum of understanding. It was decided that instead of Pent-house, the applicants would sell one another premises namely Flat No. 301 in consideration of Rs. 1.40 crores. It was agreed that the informant has paid Rs. 70 lakhs earlier and now he will pay further amount Rs. 70 lakhs and thus, the applicants would execute the sale-deed and hand over the vacant possession.

6. In view of terms of settlement between the parties, the informant has paid balance amount Rs. 70 lakhs by issuing different cheques which were realized. The applicants undertake that they would execute sale-deed as agreed as per terms of the settlement. The informant has filed affidavit-reply stating about execution of memorandum of understanding and he has no objection to quash the proceeding. The informant is present before us who has been identified by his Advocate Mr. Naik . On our query, he has no objection to quash the proceeding.

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7. Apparently, it is a commercial transaction between the parties. It was informed that due to certain issues about transaction, it was not initially materialized and out of misunderstanding, report has been lodged. Now, the parties have settled the dispute by entering into some other contract which is a sort of novation of contract. In view of altered into contract, steps have been taken.

8. It is a commercial transaction between the parties. The crime has no social impact and cannot be termed as heinous. The parties have settled the dispute by entering into other contract. In view of that, continuation of prosecution amounts to abuse of the process of the Court. Hence, we exercise our inherent jurisdiction. The applicants have expressed their willingness to deposit Rs. 50,000/- towards cost about rotating Police machinery.

9. In view of above, application is allowed. We hereby quash and set aside FIR vide crime No.259/2020, registered with Police Station Rana Pratap Nagar, Nagpur for the offence punishable under Sections 406, 420 read with Section 34 of the Indian Penal Code on account of settlement.

10. The applicants shall deposit sum of Rs. 50,000/- to the

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Government Pleader Library, High Court, Nagpur within a period of one week.

11. Stand over to 07.05.2024 for noting compliance.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)