



Judgment

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

CRIMINAL APPLICATION [APL] NO. 1000 OF 2023.

1.Mrs. Vaishnavi w/o Nishikant Ragatpure,
Aged about 37 years, Occupation – Teacher,
Resident of Plot No.24, Chandramani Nagar,
Galli No.4 L, Nagpur.

2.Mr.Tapeshwar s/o Ramdas Ragatpure,
Aged about 43 years, Occupation -
Ration Shop, resident of Ward No.3,
Ram Nagar, Lohri Sawangi,
Taluka Narkhed, District Nagpur.

... APPLICANTS.

VERSUS

1.The State of Maharashtra,
through Police Station Sitabuldi,
District Nagpur.

2.Mr.Govind s/o Laxman Choudhari,
Age 71 years, Occupation – Private,
resident of Plot No.359, Koshtipura,
Behind Hotel Kuber, Sitabuldi,
Nagpur.

.. NON-APPLICANTS.

Rgd.

Mr. S.I. Khan, Advocate for Applicants.
Mrs. Kolhe, A.P.P. for Non-applicant No.1.
Mr. U.P. Dable, Advocate for Non-applicant No.2.

CORAM : VINAY JOSHI AND
VRUSHALI V. JOSHI, JJ.

DATE : OCTOBER 07, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard. Admit. By consent of the learned Counsel for the parties, the matter is taken up for final disposal.

2. This is an application seeking to quash the first information report bearing Crime No.159/2023 registered with Sitabuldi Police Station, Nagpur for the offence punishable under Sections 420, 465, 468, 471 read with Section 34 of the Indian Penal Code.

3. It is the case of the informant that his son Anup was unemployed and was admitted in the hospital while he was ill. The

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informant's friend namely Ramdas came to see ailing Anup, and disclosed that his son Nishikant [Ramdas's son], can provide government employment for Anup. The informant was quite anxious as he was desirous to get employment for his son Anup, and therefore, he interacted with Nishikant. It was informed by Nishikant that he can arrange government job for Anup, but, for that purpose an amount of Rs.10 to 11 lakhs is required. The informant, a poor father, agreed to pay the amount to Nishikant [co-accused] for getting job for his son. Accordingly, the informant has paid an amount of Rs.1.5 lakhs by cheque and Rs.6 lakhs in cash to the co-accused Nishikant.

4. Son of the informant was sent to Bokaro Steel Plant, State of Bihar for training, which later on turned to be fake. Again Nishikant sent Anup to Raipur for job with Food Corporation of India, but, this also turned to be a fake employment. Finally the informant realized that Nishikant has duped him, hence asked for return of the amount paid to him. At that time Nishikant handed

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over a cheque of Rs. 5 lakhs to the informant with an instruction that it would not be credited till Nishikant informs him. Later on 15.09.2018, wife of Nishikant, Vishnavi [applicant no.1] and brother of Nishikant, Tapeswar [applicant no.2], also handed over a cheque of Rs.3.95 lakhs, drawn in the name of another co-accused Ajesh Shashikumar towards refund of the amount with instructions to not to deposit. However, as there was no progress the informant went to the police station and lodged the report.

5. Reading of the police report clearly discloses that the entire inducement and deception is on the part of the main accused Nishikant. It reveals that Nishikant has assured for arranging government job and under said pretext received huge sum from the informant. Nishikant has also handed over a cheque towards refund of amount, but, it was not realized. The role ascribed to present applicants is limited of handing over of cheque of Rs.3.95 lakhs with instructions not to deposit. The material does not indicate any sort of inducement, promise or even participation in receiving sum from the

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informant. Notably, the applicants have no concern with the informant, but, merely they being wife and brother of main accused Nishikant, had handed over a cheque, perhaps on the instructions of Nishikant. Moreover, the said cheque was not at all deposited for encashment.

6. In order to make out a prima facie case there must be some sort of inducement or material to disclose dishonest intention on the part of the present applicants. All the allegations are against the main accused Nishikant. Merely because applicants have handed over the cheque, who have no connection with the transaction, it is difficult to put them for trial. The prosecution has not brought other material to show involvement of applicants in the transaction nor any interaction with the informant or his son. The material even if accepted as it stands, it does not make out a prima facie case. In the circumstances, we hold that applicants have made out a case to exercise our inherent powers to prevent abuse of process of Court. In view of above following order is passed.

Rgd.

7. Criminal Application is allowed and disposed of.

The First Information Report bearing Crime No.159/2023 registered with Sitabuldi Police Station, Nagpur for the offence punishable under Sections 420, 465, 468, 471 read with Section 34 of the Indian Penal Code, is hereby quashed and set aside so far as it relates to applicants – [1] Mrs. Vaishnavi w/o Nishikant Ragatpure and [2] Mr.Tapeshwar s/o Ramdas Ragatpure only.

JUDGE

JUDGE