



Judgment

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

CRIMINAL APPLICATION [APL] No. 1561/2024.

1.Pankajkumar Prabhakar Kawalea,
Aged about 59 years, Occupation -
Business, resident of 311, Nanaji
Shastri Marg, Khare Town, Dharampeth,
Nagpur.

2.Sonal Pankajkumar Kawalea,
Aged about 58 years, Occupation -
Housewife, resident of 311, Nanaji
Shastri Marg, Khare Town, Dharampeth,
Nagpur.

... **APPLICANTS.**

VERSUS

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

2.Narendra Dharnidharji Gandhi,
Aged about 62 years, Occupation
Business, resident of Near Shiv
Mandir, Plot No.39, Balaji Nagar,
Parvati, Nagpur, Nagpur – 27.

... **NON-APPLICANTS.**

Rgd.

Mr. S.R. Agrawal, Advocate for Applicants.
Mr. N.H. Joshi, A.P.P. for Non-applicant No.1-State.
Mr. R.R. Srivastava, Advocate for Non-applicant No.2.

**CORAM : VINAY JOSHI AND
ABHAY J. MANTRI, JJ.**

DATE : OCTOBER 21, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard. **Admit.**

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

2. By this application, applicants are seeking to quash the criminal prosecution bearing R.C.C.No.684/2021 pending on the file of the Judicial Magistrate, First Class, Nagpur arising out of first information report bearing Crime No.243/2015 registered with Sitabuldi Police Station, Nagpur for the offence punishable under

Sections 420, 465, 468, 471, 474, 120-B of the Indian Penal Code, on account of settlement.

3. At the instance of a report dated 17.07.2015 lodged by the informant/non-applicant no.2, the aforesaid crime came to be registered. It is the prosecution case that both applicants are joint owners of certain piece of land. They have agreed to sell the subject property to the informant by determining the consideration at Rs. 2 Crores. A registered agreement was entered into between the parties on 28.10.2014, on which the informant has paid part consideration of Rs.65 lakhs to applicants. Applicants were supposed to obtain necessary no objection from the authorities. In the meantime, at the behest of applicants, informant has paid further amount, and thus, in the said transaction, the informant has paid total sum of Rs. 1.35 Crores.

4. Since applicants were avoiding to execute sale deed, the informant was suspicious, and then learn through public notice that despite earlier transaction with him, applicants have entered into

another transaction to sell the subject property on 05.03.2015 with one Manish Malpani. When the informant questioned the said transaction, applicants failed to satisfy, hence the report for the aforesaid offences.

5. In the meantime, the matter was amicably settled in between the parties. The informant has appeared in the proceeding through his Advocate and filed affidavit, stating about the settlement and his no objection to quash the proceeding. In pursuance of said settlement, a deed of cancellation was executed in between the parties, and applicants have repaid a sum of Rs.80 lakhs to the informant.

6. The informant is personally present before the Court and is identified by his Advocate. We have specifically asked the informant as to how the dispute has been settled for lesser consideration of Rs.80 lakhs, on which he replied that he knows about less consideration, but, for getting rid of the litigation/matter, he has entered into settlement. Of course it is within the domain of the informant to settle the matter as per his desire and satisfaction. It is a private dispute between the

parties. The informant has already settled the matter, and given no objection to quash the proceeding. The offence cannot be termed as heinous or antisocial.

7. We have brought to the notice of applicants that charge sheet has been filed in the matter in the year 2015, and for last 9 years the criminal case is pending before the trial Court. Obviously the police machinery, as well as the Court process has been used. In response, the learned Counsel for applicants expressed willingness to deposit an amount of Rs. 1 lakh towards rotating the government machinery.

8. Having regard to the nature of accusation, settlement between the parties, we find that continuation of criminal prosecution may not yield, and it would be an abuse of the process of Court. In view of that we are inclined to exercise our inherent powers and pass the following order.

ORDER

- (i) Criminal Application is allowed and disposed of.

- (ii) The Criminal prosecution bearing R.C.C.No.684/2021 pending on the file of the Judicial Magistrate, First Class, Nagpur arising out of first information report bearing Crime No.243/2015 registered with Sitabuldi Police Station, Nagpur for the offence punishable under Sections 420, 465, 468, 471, 474, 120-B of the Indian Penal Code is hereby quashed and set aside.
- (iii) Applicants shall deposit a sum of Rs. 1 lakh (Rs.1,00,000/-) with the High Court Bar Library, Nagpur within by 11.11.2024. The matter be listed for reporting compliance on 12.11.2024.

JUDGE

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