



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

CRIMINAL APPLICATION (APL) NO. 230 OF 2024

1. Pandurang S/o. Mahadeo Mular,
Age – 56 years, Occ. Business,
R/o. Plot No.18, Natraj Apartments,
Cement Road, Nagpur.
2. Nitin S/o. Krushnarao Toongar,
Age – 58 years, Occ. Business,
R/o. Plot No.R-83, Reshimbagh, Nagpur.
3. Subash S/o. Dayaram Lambat,
Age – 61 years, Occ. Business,
R/o. Plot No.17, Neelakamal Housing
Society, Renuka Nagar, Hudkeshwar,
Nagpur.
4. Vilas S/o. Shriram Murti,
Age – 54 years, Occ. Private,
R/o. Plot No.3, Danwantrinagar,
Ramna Maroti Road, Nagpur.
5. Jitesh S/o. Namdeorao Madankar,
Age – 50 years, Occ. Private,
R/o. Plot No. 23, Indra Nagar,
New Narsala Road, Hudkeshwar, Nagpur. ... **PETITIONERS**

...VERSUS...

1. State of Maharashtra
Through Police Station Officer,
Police Station, Hudkeshwar, Nagpur.
2. Rajesh S/o. Gyandeorao Tidke,
Age – 43 years, Occ. Business,
R/o. Plot No.7, Pendse Layout, Chattrapati
Chowk, Behind Chattrapati Metro Station,... **RESPONDENTS**
Nagpur.

Mr. A. Ananthakrishnan, Advocate for Applicants.
Mr. M. K. Pathan, A.P.P. for Non-applicant/State.
Mr. S. Bhalerao, Advocate for Non-applicant No.2.

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

DATED :- 09.02.2024

ORAL JUDGMENT (PER : VINAY JOSHI, J.):

1. Heard. **ADMIT.** The matter is taken up for final disposal by consent of learned Counsel appearing for the parties.
2. This is an application seeking to quash charge-sheet bearing R.C.C. No.3973/2023 arising out of First Information Report No.359/2023 registered with the Police Station, Hudkeshwar, Nagpur for the offence punishable under Sections 120-B, 409, 420 read with Section 34 of the Indian Penal Code on account of settlement.
3. The informant along with two others have formed a partnership firm named "Shobha Builders and Developers" indulging into land activities. They have entered into a development agreement with the partnership firm namely "M/s. Creative Construction" of which the applicants are partners. The applicants have agreed to develop the property on behalf of the informant firm and received a sum of Rs.1.8 crores, however, they could not perform the agreed terms. In view of that the informant, who is one of the partners of Shobha Infrastructure has lodged a report which caused police to register the crime. The police carried the investigation, recorded statements of several witnesses, seized certain documents, bank details have

been called and finally on completion of the investigation, charge-sheet has been filed. It is informed that the Trial Court has not yet framed charges.

4. In the meantime, considering business relations, the matter has been amicably settled. The parties have arrived on a certain settlement amount which applicants have paid to the informant's firm. Since both were indulging into business activities, they decided to put to an end for further smooth business relations. Already the amount which was agreed towards settlement has been paid. The informant has no grievance and, therefore, he has agreed for settlement. A document of settlement named as "Memorandum of Understanding" has been executed in between the parties. The informant has filed a copy of said document as well as filed reply affidavit stating that the matter has been amicably settled and he do not wish to prosecute the case. Rest of the two partners of the firm of Shobha Builders and Developers have also filed an affidavit confirming the settlement and their no objection to quash the proceeding. The informant and his other two partners have appeared in the Court, who are identified by their Counsel. All of them have stated about the settlement and their no objection to quash the proceedings.

5. On examination of the police report, it reveals that, it was purely a business transaction between two partnership firms. The amount which was received by the applicants has been refunded as per the terms of

settlement. Both are indulging into land development activities. The offence cannot be termed as heinous or antisocial. Having regard to all the above facts, continuation of prosecution amounts to abuse of the process of the Court.

6. We have brought to the notice that due to registration of the crime, the police machinery was exhausted to great extent. Investigation was carried in various areas like seizure, house search, recording of statements and to file charge-sheet. Certainly, Government machinery has been used in investigating the matter. At this stage, the learned Counsel for the applicants submitted that the applicants would deposit sum of Rs.1,00,000/- towards costs.

7. In view of the above, the application is allowed. We hereby quash and set aside the criminal prosecution in R.C.C. No.3973/2023 pending before the learned Judicial Magistrate First Class, Nagpur arising out of the First Information Report No.359/2023 registered with the Police Station, Hudkeshwar, Nagpur for the offence punishable under Sections 120-B, 409, 420 read with 34 of the Indian Penal Code.

8. The applicants shall deposit sum of Rs.1,00,000/- (Rs. One Lakh Only) on or before 20.02.2024 with Charitable Institution namely, Nagpur Association for the Rehabilitation of Children and Adults with Orthopedic and Other Disabilities.

9. The matter be placed on 21.02.2024, for noting compliance.
10. In view of disposal of main application, pending application, if any, stands disposed of accordingly.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)