



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

CRIMINAL APPLICATION (APL) NO.633 OF 2024

Gopal Krishna Banka and ors. -Vs- State of Maharashtra and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. S.V.Manohar, Senior counsel a/b Mr. R.V.Malviya and M.Shareef, counsel
for the applicants.
Mr.S.B.Bissa, A.P.P for non-applicant -State.

**CORAM VINAY JOSHI &
MRS. VRUSHALI V. JOSHI, JJ.
DATE : 18th APRIL, 2024.**

1. Heard.

2. This is an application seeking to quash the charge-sheet(RCC No.4586 of 2023) arising out of crime No.16 of 2023, registered with Police Station Bajaj Nagar, Nagpur district Nagpur, for the offence punishable under Sections 420,403,406,409,417 and 120B r/w 34 of the Indian Penal Code.

3. The informant is a jeweler of Nagpur, who allegedly handed over a huge sum of Rs.4.31 crores to the Company run by the applicants during the period from 12.11.2016 to 02.12.2016 for purchase of gold items. Both were indulging into sale and purchase of gold. It is the informant's case that the applicants' company/concern though delivered a small quantity of gold worth Rs.30,00,000/- however, rest of the gold was

not delivered and thus the offence of breach of trust, and cheating.

4. It is brought to our notice that initially, the applicants have lodged the report with the Police on 29.06.2020, on the basis of which, Police carried initial inquiry and filed a closure report. Being dissatisfied, the informant has filed an application to the Magistrate seeking directions to investigate in terms of section 156(3) of the Code of Criminal Procedure. In pursuance of the directions of Magistrate, Police registered offence and this time found substance in the allegations, which culminated into filing of final report.

5. It is primely argued that it was a business transaction, which was timely complied. The applicants have tendered all necessary documents to the Police about delivery of the goods which weighed to the Police in filing initial closure report. Moreover, it is submitted that for three years, from the payment, there was no grievance and at the most it would be a dispute of civil nature in the sort of recovery of price sold goods. According to the applicants, there is no element of breach of trust and cheating.

6. Issue notice for final disposal of the application to the non-applicants, returnable in six weeks.

7. Learned APP waives service of notice for non-applicant No.1.

8. The trial Court shall not proceed further till the next date of hearing.

JUDGE

JUDGE