



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.667 OF 2024

Vitthal s/o Shantaram Kalate
Age- 50 years, occu. Bussiness,
R/o- New Dattanagar, Shanti Niwas,
Near Datta Mandir, Wakad, Pune.

.. Applicant

Versus

1. The State of Maharashtra
Through Police Station Officer,
Akole Police Station,
Dist. Ahmednagar.

2. Vitthal s/o Maruti Deshmukh,
Age-62 years, Occu. Agril,
R/o. Amrutnagar, New Navalewadi,
Tq. Akole, Dist. Ahmednagar.

.. Respondents

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Mr. D. R. Markad, Advocate for the applicant.
Mr. A. D. Wange, APP for respondent No.1/State.
Mr. D.A. Naik h/f Mr. S. D. Kotkar, Advocate for respondent No.2.

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**CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.**

DATE : 24 MARCH 2025

ORDER :

. Present application has been filed for quashing the FIR vide Crime
No.35 of 2024 registered with Akole Police Station, District Ahmednagar
for the offences punishable under Sections 406, 420, 504, 506 read with
Section 34 of Indian Penal Code.

2. Heard learned Advocate Mr. D. R. Markad for the applicant, learned APP Mr. A. D. Wange for respondent No.1/State and learned Advocate Mr. D. A. Naik holding for learned Advocate Mr. S. D. Kotkar for respondent No.2.

3. Learned Advocate appearing for the applicant has taken us through the contents of the FIR and submits that even as per the contents of the FIR, his role is stated to be limited to the extent of introduction by the co-accused to the informant that he would be one of the partner. Though the informant has stated that in all amount of Rs.89,40,000/- has been transferred in the name of original accused No.1 Sudhir Ganpat Deshmukh, yet there is no statement that any amount has been transferred in the name of present applicant. He also relies on the affidavit-in-reply on behalf of respondent No.2, wherein respondent No.2/State admits that he has not transferred any amount in the name of applicant and respondent No.2 states that the applicant has been wrongly added by the police authorities in the crime and he has no objection for quashment of the FIR as against the applicant.

4. Learned APP informs that the matter is still under investigation.

5. Perusal of the FIR would give entire story, as to how representation was made and when original accused No.1/Sudhir Deshmukh, who happens to be from Amrutnagar New Navalewadi, Taluka

Akole, known to the informant. When accused No.1 came to know about the fact that the informant, who had just retired, had received amount of gratuity and was intending to start some business to settle his two sons, who were depending on the agricultural income and were not employed, it is stated that accused No.1 had given the proposal to start the hotel business in Pune and then he induced respondent No.2 to invest in the said business. Accused No.1 had introduced the present applicant as would be partner in the hotel business and there would be three partners in the said business, to which the informant agreed. The informant then states as to how he has transferred the amount and basically, all the transfer appears to be online transactions and in all, amount of Rs.89,40,000/- has been transferred in the account of accused No.1. Now, the question is as to what is the role of the present applicant and whether in view of the affidavit-in-reply, the FIR can be quashed and set aside. We cannot say that the matter has been compromised between the present applicant and respondent No.2, as in the affidavit-in-reply, there is no such averment. Now, even after giving First Information Report wherein there is a specific statement that the present applicant was introduced by original accused No.1 and it was proposed that he would be one of the partners thereby making three persons as partners in the firm for the proposed hotel business i.e. informant, accused No.1 and present applicant, it is stated that accused No.1 had not either

returned the amount, nor started the business. Even at the end, the informant states that present applicant had taken part in making representation and then cheating him. Now, still the informant want to blame the police stating that the police have wrongly added the applicant as party. It is not wrongly made, but it is on the basis of application in the FIR made by himself i.e. by the informant, he has been made as an accused.

6. What was exactly the transaction between original accused No.1 and the present applicant would only be revealed in the investigation. Whether there is further any transfer of amount by original accused No.1 in the account of present applicant would be part of investigation, which is still going on and, therefore, at this stage, case is not made out for exercise of powers under Section 482 of the Code of Criminal Procedure. The application therefore stands rejected.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm