



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1439 OF 2022

1. Prajakta Mahendra Agrawal,
Age : 35 Years, Occ. Household,

2. Girdharilal Shivdas Agrawal,
Age: 70 Years, Occ. Business,

Both Resident of Rajendra Prasad Road,
Jalna.

..Applicants
(Original Accused)

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Sadar Bazar Police Station,
Jalna.

2. Mukesh S/o Omprakash Agrawal,
Age : 50 Years, Occ. Business,
R/o. 703, Raheja Woods Society,
Kalyani Nagar, Pune.

.. Respondents

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Advocate for the applicants : Mr. Vishal A. Bagdiya

AGP for Respondent No.1 State :Mr.

Advocate for Respondent No.2 : Adv. Priyanka A. Deshpande

holding for Mr. S. B. Deshpande

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**CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.**

DATED : 06th AUGUST, 2025

ORDER:-

1. This is an application filed under Section 482 of the Code of Criminal Procedure for quashing of the First Information Report vide Crime No. 21 of 2022 registered with S.B. Police Station, Jalna for the

offence punishable under Sections 420, 406 read with Section 34 of the Indian Penal Code.

2. The F.I.R in question is lodged by respondent No.2 alleging that he is running the business named and styled as “*Shree Bhagwan Tubes and Containers Pvt. Ltd*”, situated at Shirur, District Pune and he deals in manufacturing of HD Paper Tubes. He got acquainted with Mahendra Giridharilal Agrawal, partner of “*Tanmany Polyflims Pvt. Ltd,*” Jalna through his relative at Jalna. He supplied Paper Tubes to Mahendra Giridharilal Agrawal. The last material was supplied on 03.07.2020 for an amount of Rs. 1,08,346/-. Mahendra Agrawal expired in July 2020, during Covid-19 pandemic. His wife and father (applicants) started looking after the business of the said Company- Tanmay Polyflims. Respondent No.2 supplied HD Papers to the Company of the applicants during the period 2018 to 3rd July 2020 and they have failed to pay outstanding dues of Rs. 37,77,000/-. In spite of repeated demands, the said amount is not paid by the applicants and therefore, they have cheated respondent No.2. After registration of the First Information Report, on completion of investigation, charge sheet came to be filed and case is numbered as R.C.C. No. 1173 of 2022, pending before the learned Judicial Magistrate, First Class at Jalna.

3. Heard learned Advocate for the applicants, learned A.P.P for the State and learned Advocate appearing on behalf of respondent No.2. Perused documents placed on record and citations relied upon by both the sides.

4. On plain reading of the First Information Report, it clearly discloses a civil dispute. It is necessary to mention here that respondent no.2 has already filed Special Civil Suit No. 366 of 2023 in the Court of learned Civil Judge, Senior Division, Jalna for recovery of an amount of Rs. 38,76,920.76/-. In the plaint, it is averred that during the period between 2015-2016 to 2020-2021 he supplied goods worth Rs. 1,34,61,529/- and till 01.10.2020 the defendants (applicants) have paid an amount of Rs. 95,84,537.04/- and an amount of Rs. 38,76,992.76/- is outstanding and for its recovery the suit is filed. Though tax invoices are referred in the suit, learned Advocate for the applicants contends that no invoices, bills or challans are filed by respondent No.2 along with the suit.

5. From the allegations made in the First Information Report and from the pleadings in the plaint, it is clear that there were business transactions between respondent No.2 and the applicants' company. Perusal of the First Information Report as well as material placed on record does not indicate that since beginning there was dishonest intention on the part of the applicants to cheat respondent no.2. Mere

non payment of dues of a business transaction does not invite criminal liability. It is therefore, clear that the second respondent has converted a purely civil dispute into a criminal prosecution.

6. Admittedly, respondent No.2 has already availed the civil remedy for recovery of the outstanding dues from the applicants. In this view of the matter, even if the allegations made in the First Information Report are taken at their face value, they do not *prima facie* constitute any offence or make out any criminal case against the applicants. The First Information Report therefore, is required to be quashed, as a purely civil dispute is brought into criminal prosecution by respondent No.2 with a view to pressurize the applicants to clear his dues. No ingredients of offence punishable under Sections 406 and 420 of the Indian Penal Code are made out in the First Information Report and charge sheet. In these facts, continuation of prosecution against the applicants is an abuse of process of law.

7. Learned Advocate for the second respondent has opposed the application by relying on ***Kathyayini Vs. Sidharth P S. Reddy and others [2025 AIR (SCW) 3316]*** wherein it is held that “ pendency of civil proceedings on the same subject matter, involving the same parties is no justification to quash the criminal proceedings if a prima facie case exists against the accused persons.” In present case certainly such *prima facie* case exists against respondent. Therefore,

the Apex Court set aside the order of High Court thereby quashing the criminal proceedings, as the dispute was of a civil nature.

8. As we have observed (*supra*) that in the present case, the dispute is of a purely civil nature and no ingredients of sections 420, 406 of the Indian Penal Code made out against the applicants, therefore, this citation is no help to respondent No.2.

In the result, following order :

O R D E R

(I) The application is allowed.

(II) The proceedings of Regular Criminal Case No. 1173 of 2022, pending before the learned Judicial Magistrate, First Class, Jalna arising out of First Information Report vide Crime No. 0021 of 2022, dated 09.01.2022 registered with S.B. Police Station, Jalna for the offences punishable under Sections 420, 406 read with Section 34 of the Indian Penal Code along with charge sheet, are hereby quashed and set aside.

(SANDIPKUMAR C. MORE)
JUDGE

(NITIN B. SURYAWANSHI)
JUDGE