



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.3493 OF 2024

- 1) Jagdeep S/o Tukaram Ghatе,
Age-58 years, Occu:Trustee of
Gurukrupa Gram Vikas Sanstha, Billoli,
- 2) Sinhabai W/o Jagdeep Ghatе,
Age-47 years, Occu:President of
Gurukrupa Gram Vikas Sanstha, Billoli,

Applicant Nos.1 and 2 R/o-Datta Nagar,
Behind Bus Stand, Degloor,
Taluka-Degloor, District-Nanded.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Police Station, Naigaon,
Taluka-Biloli, District-Nanded,
- 2) Rahul S/o Ganpatrao Tembhurnikar,
Age-37 years, Occu:Labour,
R/o-Tembhurni, Naigaon (Kh.),
Taluka-Naigaon, District-Nanded.

...RESPONDENTS

...
Mr. Govind G. Suryawanshi Advocate for Applicants.
Mr. N.R. Dayama, A.P.P. for Respondent No.1.
Ms. Maya R. Jamdhade Advocate for Respondent No.2.
...

**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 18th AUGUST, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed, initially for quashing the the First Information Report (for short "the FIR") vide Crime No.172 of 2023 registered with Naigaon Police Station, Taluka-Naigaon, District-Nanded, on 3rd November 2023, for the offence punishable under Sections 420, 466, 467, 504, 506 read with Section 34 of the Indian Penal Code and later on by way of amendment, for quashing the charge-sheet No.52 of 2024 i.e. the proceedings in R.C.C. No.23 of 2024, pending before the learned Judicial Magistrate First Class, Naigaon, Taluka-Naigaon, District-Nanded.

2. Heard learned Advocate Mr. Suryawanshi for the applicants, learned APP Mr. N.R. Dayama for respondent No.1 and learned Advocate Ms. Maya Jamdhade for respondent No.2.

3. Learned Advocate for the applicants has taken us through the entire charge-sheet including the FIR and submits that the real transaction appears to have been suppressed by the informant and by concocting a story, he has filed the FIR. The informant had lodged private complaint bearing Miscellaneous Criminal Application No.86 of 2022, before the learned Judicial Magistrate First Class at Naigaon, District-Nanded. It is

submitted that there was friendship between the informant and applicant No.1 since many years and applicant No.1 had requested the informant to give hand-loan on 15th May 2015, to the tune of Rs.5,00,000/- for the treatment of his father. It was promised that he would return the amount within a month. The informant has stated that he was not having so much of amount, therefore, he had borrowed the said amount from Eknath Tompe and Laxmibai Sonkamble. Applicant No.1 has not repaid the said amount in spite of several requests. There was an agreement regarding repayment of hand-loan on 13th June 2016. Applicant No.1 had then stated that he was the President of Education Society by name, Gurukrupa Gram Vikas Sanstha Billoli, Taluka-Mukhed, District-Nanded and there was an Ashram School run by his society at Degloor and post of superintendent was vacant there. Applicant No.1 forced the informant to make an application for the said post on 14th June 2016 and then appointment order was given to the informant. On 15th August 2019, the informant realized that the said Sanstha is not belonging to applicant No.1. Therefore, he called the meeting of applicant Nos.1 and 2 and asked for the repayment of the amount of Rs.5,00,000/- on 25th February 2020. At that time

both the applicants had refused to repay the said amount. They had threatened the informant with dire consequences.

4. In view of these allegations, the learned Magistrate passed the order of investigation under Section 156(3) of the Code of Criminal Procedure and then the FIR came to be lodged. Therefore, the entire evidence collected would show that there was no intention to cheat since beginning as it has not been pleaded at all. The alleged loan transaction had taken place on 15th May 2015 and the FIR has been registered on 3rd November 2023. There is huge delay in lodging of the FIR. From the record at the Charity Commissioner's Office, it can be seen that present applicant No.2 was one of the trustee and father of applicant No.1 was also the trustee. Thereafter, it appears that applicant No.1 was President for some period but there was no question of any forgery committed by the applicants.

5. Learned Advocate for the applicants relies on the decision by the Division Bench of this Court (to which one of the Member of this Bench i.e. SMT. VIBHA KANKANWADI, J. was party), in *Pankaj S/o Sambhaji Kate vs. the State of Maharashtra and another, Criminal Application No.1836 of 2023, decided on 22nd November 2024*, whereby this Court on the point of delay as well

as on the point of limitation had allowed quashment of the proceedings and the FIR. Further reliance has been placed on ***Rekha Jain vs. the State of Karnataka and another, 2022 LiveLaw (SC) 468***, wherein it has been held that to make out a case against a person for offence under Section 420 of Indian Penal Code, there must be a dishonest inducement to deceive a person to deliver any property to any other person. Similar view was taken in ***Archana Rana vs. State of Uttar Pradesh and another, Criminal Appeal No.167 of 2021, decided on 1st March 2021***.

6. Per contra, the learned APP and learned Advocate for respondent No.2 strongly opposed the application and submitted that though the transaction of hand-loan had taken place on 15th May 2015, the fact remains is that when applicant No.1 failed to repay that amount, an agreement or a document in presence of two witnesses was executed by applicant No.1 on 13th June 2016. On the next day application was taken from the informant for the post of superintendent in Ashram School and applicant No.1, in the capacity as President of Gurukrupa Gram Vikas Sanstha, endorsed that informant has been appointed on that post. Even informant was allowed to resume the charge of the post on the same day and a separate order of appointment was also given. Certainly there is evidence to the effect that such

documents have been created. Now it would be subject to the trial and there has to be a full-fledged trial when such false documents are created. After the registration of the offence both the applicants went absconding, which is a matter to be considered. Learned Advocate for respondent No.2 also relies on the affidavit-in-reply by respondent No.2 – informant, which is the reiteration of the contents of the FIR.

7. At the outset, it is to be noted that there are documents on record which show that applicant No.1 had posed himself as President of Gurukrupa Gram Vikas Sanstha. Now, what was his period of Presidentship, then will have to be the matter of evidence. Applicant No.2 is the wife of applicant No.1 and also the trustee of the said institution. There might be some lacunas in the investigation but still that can be cured by the police under Section 173(8) of the Code of Criminal Procedure. Statement of Sambhaji Vitthal Waghmare would show that informant had given the amount to applicant No.1. Statement of witness Ganpat Malhari Kamble who is father of the informant, has stated that the amount was given in his presence. The documents in the form of agreement, application for appointment, endorsement regarding appointment and appointment order, are on record. The validity and authenticity

of the said documents cannot be gone into in this application. Delay in lodging the FIR, if any, can be explained and that cannot be the sole ground for quashment of the FIR.

8. The decisions those have been relied upon by the learned Advocate for the applicants are in respect of different facts, though the law ultimately has been summarized that for proving offence under Section 420 of the Indian Penal Code, there should be an intention to cheat since beginning. On the facts itself in *Pankaj S/o Sambhaji Kate vs. the State of Maharashtra and another*, (supra), this Court has come to the conclusion that the offence was not made out. But herein this case when applicant No.1 had no authority to appoint the informant without there being a resolution and permission from Education department, then the document of appointment order would be a fabricated document. Under such circumstance, we do not find this to be a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure.

9. The Application stands rejected.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE