



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

33 CRIMINAL WRIT PETITION NO. 1473 OF 2021

BABAN NAMDEO KALE
VERSUS
ABHIJEET ASHOK INGALE AND ANOTHER

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Advocate for the Petitioner : Mr. V.P. Latange
Advocate for Respondent No. 1 : Ms. Shreyashree Pujari h/f Mr. Sachin
S. Panale

APP for Respondent No.2/State : Ms. Uma S. Bhosale

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CORAM : SUSHIL M. GHODESWAR, J.
DATE : 10.11.2025

PER COURT :

1. The petitioner is challenging the order passed by the learned Sessions Court in Revision application No. 12 of 2019, wherein, the revision application preferred by the respondent/Original accused was allowed vide order dated 18.11.2021. The petitioner contends that he has filed a private Complaint before the JMFC, Karjat, District Ahmednagar for the offence punishable under Sections, 420, 418 , 427 of the Indian Penal Code.

2. Learned JMFC, Karjat, vide order dated 11th October, 2018 has issued process against the accused for the offence punishable under Section 420 of the IPC., while the complaint as regards the offence punishable under Sections 418 and 427 was dismissed. The said order was challenged by the respondent/Original Accused in revision before the Sessions Court, on the ground that the transaction between the

parties was purely of Civil Nature and as such, there is no element of cheating. The learned Sessions Court vide the impugned order dated 18.11.2021 was pleased to allow the revision, which is under challenge before this Court.

3. Heard Mr. Latange, learned Advocate for the petitioner. He contends that the respondent/Accused by delivering complainant low standard furniture material has fraudulently cheated him. The Complainant has paid Rs. 3,00,000/- towards the purchase of good quality furniture to Respondent -Accused. However, respondent while delivering aforesaid low quality furniture articles, cheated the Complainant and put him at loss. Therefore, Mr. Latange, submitted that respondent/accused having committed an offence under Section 420 of the IPC is liable to be prosecuted before the trial Court.

4. Per-contra, Ms. Shreyashree Pujari h/f Mr. Sachin S. Panale, learned Advocate for respondent No. 2 states that the order passed by the learned Sessions Court in Revision Application is correct and proper and requires no interference at this stage.

5. I have gone through the order passed by the learned Sessions court and also heard the learned Counsel for both the parties at length.

6. Learned Sessions Court in its impugned order dated 18.11.2021 stated that there was agreement between the Complainant

and the Accused for supply of furniture of a particular quality. Though the revision-applicant i.e. the Petitioner had produced on record the report of low quality of supply of furniture, however, it cannot be revealed from the said document as to whether there was any ill-intention in the mind of accused/revision petitioner at the initial stage or inception of transaction.

7. The primary requirement to make out an offence of cheating is dishonest and fraudulent intention at the time of inducement is made. The intention to deceive should be in existence at the time when the inducement was made. Mere failure to keep up a promise subsequently cannot be presumed as leading to cheating. [**Annamalai Vs. State of Karnataka (2010) 8 SCC 524, Hiralal Harilal Bhagwati Vs. CBI, New Delhi 2003 (5) SCC 257**].

8. Thus, as the controversy between the parties is purely of Civil nature, accordingly, by observing so the Sessions Court allowed the revision application. The said finding is based on correct and proper aspect of law and as such, requires no interference by this Court.

9. Hence, the Writ Petition is dismissed.

(SUSHIL M. GHODESWAR, J.)