2025:BHC-AUG:14609-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

14 CRIMINAL APPLICATION NO. 1668 OF 2025

Sangameshwar Vasant Rathod
VERSUS
The State of Maharashtra and another
...
Advocate for Applicant : Mr. C.C. Deshpande h/f Mr. Shashikiran N. Patil
APP for Respondent No.1: Mr. V.K. Kotecha
.....

CORAM : SMT. VIBHA KANKANWADI AND SANJAY A. DESHMUKH, JJ.
DATED : 9th JUNE, 2025

PER COURT :-

1. The present application has been filed under section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 and under section 482 of the Cr.P.C. for quashing of the proceeding in R.C.C. No. 31 of 2025 pending before the learned J.M.F.C. Mukhed, district Nanded for the offences punishable under sections 318(4), 316(2), 336(2), 337, 338, 336(3), 340(2), 341(2), 296, 351(4), 238(b), 61(2)(A) of Bhartiya Nyaya Sanhita, 2023 (under Section 420, 406, 465, 466, 467, 468, 471, 473, 294, 507, 201, 120-B of IPC) arising out of the F.I.R. vide C.R. No. 369 of 2024 registered with Mukhed police station, District Nanded, for the offences punishable under Sections 420, 406, 465, 466, 467, 468, 471, 473, 294, 507, 120-B of I.P.C..

2. Heard Mr. C.C. Deshpande h/f Mr. S.N. Patil, learned advocate for the applicant and learned A.P.P. for respondent No.1. No necessity to issue notice to respondent No.2-informant.

3. Learned advocate appearing for the applicant has taken us to the contents of the F.I.R. and the charge sheet. He submits that it is a fact that co-accused had asked the amount of Rs.1,90,000/- on his PhonePe account, yet the applicant was not knowing for what purpose that amount was given. When the applicant came to know that said amount was towards such transaction, in fact he had repaid that amount to the informant. So also in the supplementary statement of the informant, recorded on 27.1.2025, he has specifically stated that brother of the present applicant had transferred an amount of Rs.1,90,000/- on his account. That means, the informant has received the amount twice. The applicant had no knowledge that co-accused had cheated the informant and had misappropriated the amount. When the informant has received the amount, he might not have any objection now for quashing of the F.I.R. and the charge sheet against the present applicant.

4. The first and foremost fact is that in the F.I.R. it is specifically stated that co-accused Ramdas Shinde had told the informant that the present applicant and the co-accused are his men

and there is no problem if the amount is given on their PhonePe account. On 17.09.2023 co-accused Ramdas Shinde had given a phone call to the informant and asked him to pay an amount of Rs.50,000/-, on 18.9.2023 amount of Rs.10,000/-, on 19.9.2023 an amount of Rs.30,000/- and on 20.9.2023 amount of Rs.90,000/- on PhonePe account of the applicant. In all the amount of Rs.1,90,000/- was to be given and accordingly it was given on the PhonePe account of the present applicant. Now when the applicant intends to rely upon the supplementary statement of the informant, thereby he admits that he had received the said amount and in the supplementary statement it is stated that the brother of the present applicant had made bank transfer in the account of the informant of amount to the extent of Rs.1,90,000/-. The supportive documentary evidence has been collected. Now whether the applicant had knowledge of the offences or he had not conspired with the co-accused has to be proved or brought on record by the applicant before the trial court. It requires evidence and cannot be gone into merely because the amount has been repaid. The offences and the proceedings cannot be quashed and set aside. We therefore, dismiss the application at the threshold.

(SANJAY A. DESHMUKH, J.) **(SMT. VIBHA KANKANWADI, J.)**

rlj/