



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.575 OF 2024

APPLICANT : **Dr. Sandip S/o Sahebrao Arsad,**
Aged 51 years, Occ: Medical Practitioner, R/o
“Darpan Jawahar Nagar, Akola.

..VERSUS..

NON-APPLICANTS : 1. **State of Maharashtra,**
Through Police Station Officer, Police
Station Shegaon City, Tq. Shegaon, Dist.
Buldhana.

2. **Shri. Gopal S/o Chandrabhan Hadole,**
Aged 50 years, Occ : Business, R/o Near
Narayan Maharaj Sansthan, Balapur Road,
Tq. Balapur, Dist : Akola.

Mr Anil Mardikar, Senior Advocate a/b Mr Swapnil S. Shingane, Advocate for Applicant.
Mrs Swati Kolhe, Addl. P. P. for Non-Applicant/State.
Mr Sanket Joshi, Advocate for Non-Applicant No.2.

CORAM : **URMILA JOSHI-PHALKE AND**
NANDESH S. DESHPANDE, JJ.

RESERVED ON : **11th NOVEMBER, 2025.**

PRONOUNCED ON : **19th NOVEMBER, 2025.**

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

. Heard.

2. **Admit.** Heard finally with the consent of learned
Counsel for the parties.

3. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973, for quashing and setting aside the First Information Report dated 03.03.2024 registered by the non-applicant No.1 – Police Station Officer, Police Station Shegaon, Tq. Shegaon, Dist. Buldhana vide crime No.0108 of 2024 for the offences punishable under Sections 406, 417, 468 and 471 of the Indian Penal Code, 1860. The applicant further prays for quashing and setting aside the order dated 29.02.2024 passed by the Judicial Magistrate First Class, 2nd Court, Shegaon in Misc. Criminal Case No.313 of 2023, which led to filing of the First Information Report as stated above.

4. Facts as depicted from the application are as under :

The applicant in the present case is a medical practitioner and qualified as M.B.B.S. DVD. The non-applicant No.2 is engaged in the business of sale and purchase of plot. In the month of January and February – 2018, the non-applicant No.2 approached the applicant through one Amit Kulkarni, who was employee of Axis Bank, Branch at Akola, and offered to sell his owned and possessed non agricultural plots situated at

Shegaon-Balapur Road in survey No.72 Mouza Shegaon having plot Nos.1, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17. Parties negotiated regarding intended transaction on 10.04.2018. A notarized agreement to sell was entered into between the applicant and non-applicant No.2 pursuant to which, the applicant paid an amount of Rs.25,00,000/- to the non-applicant No.2 through cheque. As per the said agreement, sale-deed regarding the said plots was to be executed within 120 days. As can be seen from the agreement in question that on the day of execution of agreement to sell, the plots were mortgaged with Axis Bank and State Bank of India. Therefore, the non-applicant No.2 had assured to get the mortgaged discharged by repaying the loan of those banks before the date of sale-deed.

5. It is further stated in the application that at the insistence of non-applicant No.2, the applicant approached Collector of Stamp, Buldhana by filing proceedings under Section 31 of the Maharashtra Stamp Act, 1958 and requested for adjudication of valuation of market value of the said 9 plots on the ground that those are situated out side the limit of Municipal

Council Shegaon. The said Authority after adjudication, fixed the market value of the plots as Rs.49,50,380/-. After entering into an agreement to sell for above 15 plots, the non-applicant No.2 could release only 9 plots from the State Bank of India. It is further stated in the application that the non-applicant No.2 requested for execution of fresh agreement to sell of remaining 6 plots mortgaged with Axis Bank i.e. plot Nos.1, 3, 4, 5, 16 and 17 on assurance that the same shall be done after execution of sale-deed of 9 plots which was released by the State Bank of India.

6. Therefore, on assurance of the non-applicant No.2, a fresh agreement to sell was executed between applicant and non-applicant No.2 on 08.02.2019 for the said 6 plots which mentioned the consideration amount as Rs.36,47,130/-. On 25.03.2019, the non-applicant No.2 executed sale-deed of 9 plots out of 15 plots by accepting an amount of Rs.48,52,875/-. It is further pertinent to mention that in the sale-deed, there is no reference of amount of Rs.25,00,000/- paid on 10.04.2018 which was paid when the initial agreement to sell was executed for all 15 plots. The applicant further states that in the agreement to sell

dated 10.02.2019, the non-applicant No.2 agreed to receive an amount of Rs.25,00,000/- and remaining amount of Rs.11,47,130/- on the condition that the non-applicant No.2 shall clear the title by discharging the liability of Axis Bank, Akola. It is further stated that if the title could not be cleared before 30.06.2019, the agreement shall stand cancelled and the non-applicant No.2 shall return the amount of Rs.25,00,000/- paid to him on 10.04.2018.

7. After execution of the second agreement to sell, the non-applicant No.2 again insisted the applicant to apply under Section 31 of the Stamp Act of 1899 for adjudication of market value and on his insistence, the applicant on 25.04.2019, submitted an application under Section 31 of the said Act to Collector of Stamp, Buldhana.

8. However, since there was no response from the non-applicant No.2 regarding execution of sale-deed of the remaining 6 plots as per agreement to sell dated 08.02.2019 till 30.06.2019, the applicant persuaded the non-applicant No.2 to return the amount of Rs.25,00,000/- paid at the time of

execution of first agreement to sell dated 10.04.2018. Therefore, on 30.09.2019, the non-applicant No.2 issued two cheques of Rs.10,00,000/- and Rs.15,00,000/- respectively returning the said amount. However, to the utter dismay of the applicant, the said cheques were dishonored on the ground of insufficient fund which prompted the applicant herein to file an application under Section 138 of the Negotiable Instruments Act, 1881 vide SCC No.6087 of 2019 and SCC No.6088 of 2019 before the Judicial Magistrate First Class, Akola, which are pending for consideration. Smelling something fishy, the applicant registered the First Information Report against the non-applicant No.2 vide Crime No.0464 of 2021 for offence punishable under Section 420 of the I.P.C. which was registered as Regular Criminal Case No.465 of 2021, which is pending before the Judicial Magistrate First Class, Shegaon.

9. In the backdrop of these facts, as per the applicant, it appears that on 13.09.2023, the non-applicant No.2 filed a complaint under Section 156(3) of the Criminal Procedure Code against the applicant for offences punishable under Sections 406,

417, 468 and 471 of the I.P.C. vide Cri. M. A. No.313 of 2023. On 29.02.2024, the Judicial Magistrate First Class, 2nd Court, Shegaon was pleased to pass an order of sending complaint to non-applicant No.1 for investigation under Section 156(3) of the Cr.P.C. and directed the non-applicant No.1 to submit a report within one month. Thereafter, on 01.03.2024, the non-applicant No.1 registered an offence against the applicant vide Crime No.0108 of 2024 for the offences punishable under Section 406, 417, 468 and 471 of the I.P.C. It is this First Information Report, which is challenged in the present application.

10. As per the allegations in the First Information Report, out of 15 plots only 9 plots were purchased by the applicant. It is further alleged that the applicant got the value of land decreased by making proper application before the Stamp Authorities and the sale-deed of 6 plots was not executed therefore, the applicant obtained two cheques from non-applicant No.2. It is further alleged in the First Information Report that since the applicant did not get the sale-deed executed of 6 plots, the non-applicant No.2 could not repay the amount of loan of

Axis Bank and therefore, the Axis Bank had taken possession of 6 plot due to which, the non-applicant No.2 suffered financial loss. Thus, offences were registered as stated above. It is this First Information Report which is challenged in the said application.

11. We have heard Mr. Anil Mardikar, learned Senior counsel assisted by Mr. Swapnil Shingane, learned counsel for the applicant as also Mrs. S. V. Kole, learned Additional Public Prosecutor for the non-applicant/State and Mr. Sanket Joshi, learned counsel for the non-applicant No.2.

12. The learned Senior counsel for the applicant, while taking us through the record of the matter, vehemently submits that lodging of the First Information Report is nothing but an abuse of process of law. He further states that neither Section 406 nor Section 468 of the I.P.C. is attracted as there are no ingredients to constitute the said offence in the First Information Report. He further submits that the First Information Report lodged by the non-applicant No.2 is only by way of a counter blast and it would be seen it is nothing but the dispute which is

essential in civil nature which being tried to give the colour of criminality.

13. Learned Additional Public Prosecutor while opposing the contentions advanced by the learned Senior counsel that *prima facie* reading of the First Information Report would reveal that the offence complained of are made out and therefore, inherent jurisdiction under Section 482 of the Cr.P.C. could not be exercised at this stage.

14. The learned counsel for the non-applicant No.2 while supporting the contentions advanced by the learned Additional Public Prosecutor submits that the applicant has committed the act of fraud by forging documents and willfully abstaining from executing the sale-deed of remaining 6 plots, thereby causing wrongful loss and prejudice to the non-applicant No.2.

15. In the backdrop of these facts, we have perused the First Information Report in question. The execution of two agreements to sell and sale-deeds of 9 plots are not disputed. It is also not disputed that it was the applicant who filed an

application against the non-applicant No.2 on 11.07.2021 which culminated into the First Information Report being No.0464 of 2021 and which is pending for adjudication.

16. The First Information Report in question bearing No.0108 of 2024 if read meaningfully, we are of the considered view that the allegation against the applicant is that by omitting to execute sale-deed of remaining 6 plots, he has committed an offence punishable under Sections 406, 420, 468 and 471 of the I.P.C.

17. We are at the pains to understand that how omission to execute sale-deed would constitute such an offence. A meaningful reading of the First Information Report would reveal that the non-applicant No.2 alleges that the applicant intentionally and with *mala fide* intention refused to execute the sale-deed of remaining 6 plots. However, that in our considered view could not be an aspect which would attract the offences punishable under various sections much less as mentioned in the First Information Report. The dispute is essentially of a civil in nature and the First Information Report lodged is nothing but a

grave abuse of process of law. in the backdrop of these facts, We are of the considered opinion that the non-applicant No.2 has chosen to abuse of the process of law to its hilt and manage to lodge First Information Report by taking aid of the order of the learned Magistrate passed under Section 156(3) of the Cr.P.C. Now a days, there has been growing tendency of giving criminality to a dispute which is essentially civil in nature. A practice which has been deprecated by time an again by the Hon'ble Apex Court, a beneficial reference in that regard can be made to the judgment of *A. M. Mohan vs. the State Represented by SHO and Another*, reported in *MANU/SC/0227/2024*.

18. In that view of the matter and as already stated supra, the situation would squarely fall within the following well laid down parameters by the Hon'ble Apex Court in the case of *State of Haryana and Others vs. Ch. Bhajan Lal and Others*, reported in *1992 AIR 604*:

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b)

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d)

(e)

(f)

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge. In the instant case, the allegations made in the complaint, do clearly constitute a cognizable offence and this case does not call for the exercise of extraordinary or inherent powers of the High Court to quash the F.I.R. itself.

19. Admittedly, there is no entrustment or dominion over property in violation of any direction of law which is a per-requisite for attracting offence under Section 406 of the Indian Penal Code. Furthermore, in view of the facts stated hereinabove, there is no inducement for delivering of property as admittedly a sale-deed has been executed with respect to nine plots and cheques were given by non-applicant No.2 to applicant voluntarily. Thus, it is not even the complainant's case that any false document has been made to cause injury to constitute ingredient of offence punishable under Section 468 of the Indian Penal Code. Since there is no forgery, question of using the said

forged document as genuine one does not arise to constitute offence punishable under Section 471 of the Indian Penal Code.

20. In view of these facts, we are of the opinion that the criminal proceedings initiated by the non-applicant No.2 are actuated with ulterior motive and smacks of malafides amounting to grave abuse of process of Court. The applicant has been made to suffer for no fault on his part.

21. In that view of the matter, we think it fit to impose exemplary costs on the non-applicant No.2 which would act as a deterrent. In our view, as amplified herein above, the non-applicant No.2 has not only put the applicant in dock but has made him to knock the doors of the Court only because he agreed to purchase the plots in question. We therefore pass the following order :

ORDER

- i) The application is **allowed**.
- ii) The First Information Report dated 03.03.2024 registered by the non-applicant No.1 – Police Station Officer, Police Station Shegaon, Tq. Shegaon, Dist. Buldhana vide crime

No.0108 of 2024 for the offences punishable under Sections 406, 417, 468 and 471 of the Indian Penal Code, 1860, and the order dated 29.02.2024 passed by the Judicial Magistrate First Class, 2nd Court, Shegaon in Misc. Criminal Case No.313 of 2023, are hereby quashed and set aside.

iii) The non-applicant No.2 to pay the amount of Rs.1 lakh to the Chief Minister Relief Fund within 2 weeks from the date of receipt of this judgment and report compliance of the said order to this Court. We have been informed that the non-applicant No.2 is lodged in prison. We request the learned Additional Public Prosecutor to inform about the judgment to the non-applicant No.2 through Superintendent of concerned prison.

iv) Fees of the appointed counsel be quantified and paid as per rules.

22. The application is disposed of in the above said terms.

(NANDESH S. DESHPANDE, J.) (URMILA JOSHI-PHALKE, J.)