



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

CRIMINAL APPLICATION NO.933 OF 2023

1. Bharat s/o Pandurang Mane, aged about 43 years, Occup : Business, r/o Sudam Galli, New Itwari Road, Near Sai Bakery, Itwari, Nagpur.

... APPLICANT

VERSUS

1. State of Maharashtra, through its Police Station Officer, Police Station Katol, Tah. Katol and District Nagpur.
2. Sau. Vandana w/o Vivek Chaudhari, aged about 43 years, occup. Lawyer, R/o Ramdevbaba Layout, Katol, Tq. Katol, Dist. Nagpur.

... NON-APPLICANT(S).

Shri Atul S. Gadmade, Advocate for the applicant. (appointed).
Mrs Haider, Addl.P.P. for the non-applicant/State
Ms C.S. Bhute, Advocate for non-applicant no.2. (appointed)

CORAM : ANIL S. KILOR AND PRAVIN S. PATIL, JJ.

DATE : 01.04.2025.

JUDGMENT : (Per : Anil S. Kilor, J.)

Heard. **ADMIT.**

2. The matter is taken up for final disposal by consent of the parties.

3. This is an application filed under Section 482 of the Code of Criminal Procedure ('CrPC') by the applicant for quashing of the Charge-sheet bearing No.159/2020 arising out of First Information Report No.453 of 2020 registered with Katol Police Station, Nagpur Rural for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code ('IPC') on the ground that, there are no allegations, which would *prima facie* constitute the offence punishable under Section 420 of the IPC.

4. Hence, we perused the FIR, where-from it is evident that it is the case of the informant that he paid certain amount to the applicant for participating in Bissi. In Bissi, every member deposits certain fixed amount every month and by way of draw of lots or by rotation such total amount is to be paid to one member every month.

5. It is the case of the informant that every month he regularly paid Rs.5000/- to the applicant and initially in the first year, the applicant paid the amount to the informant as per draw of lots of Bissi. However, it is alleged that in 2019, on his turn to receive the amount i.e. Rs.1,80,000/-, Rs.60,000/- was paid to him by the applicant in

cash. It is further alleged that, out of balance amount a cheque of Rs.50,000/- was given to the informant by the applicant and a promise was made to pay Rs.70,000/- in near future. However, allegedly on 21.07.2020, when the cheque was presented for encashment, it was dishonored due to insufficient funds.

6. Even if the allegations made in the FIR are taken at its face value, it is evident that there was no dishonest intention of the applicant since beginning. It is also an admitted fact that the applicant paid Rs.60,000/- out of Rs.1,80,000/-. It is a settled law that dishonest intention from the beginning is *sine qua non* to attract Section 420 of the IPC as held by the Hon'ble Supreme Court in the case of ***Delhi Race Club (1940) Ltd. and ors. vs. State of Uttar Pradesh and anr. 2024 10 SCC 690.***

7. In the circumstances, there is nothing on record to show that since beginning there was dishonest intention of the applicant to cheat the informant, thus, offence under Section 420 of the IPC does not constitute.

8. In view of the above, we hereby allow the Criminal Application. The Charge-sheet bearing No.159/2020 arising out of First Information Report No.453 of 2020 registered with Katol Police Station,

Nagpur Rural for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code, pending before the Judicial Magistrate First Class, Katol is hereby quash and set aside.

9. The Criminal Application stands disposed of accordingly.

10. Fees of the appointed Counsel be paid as per Rule.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)

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