



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
CRIMINAL APPLICATION (APL) NO.1252 OF 2022

APPLICANTS
(Accused persons)

- : 1 **Darshanlal S/o. Bikhomal Kingrani,**
Age :51 years, Occupation : Business,
- 2 **Smt. Seema W/o. Darshanlal Kingrani,**
Age : 46 years, Occupation : Household.
- 3 **Ku. Devika D/o. Darshanlal Kingrani,**
Age : 24 years, Occupation : Service.
- 4 **Ku. Nupur D/o. Darshanlal Kingrani,**
Age : 21 years, Occupation : Student.
- 5 **Ku. Piya D/o. Darshanlal Kingrani,**
Age : 18 years, Occupation : Student.

All the applicant Nos.1 to 5 R/o. 526,
Vasanshah Chowk, Near Rajkumar
School, Jaripatka, Nagpur.

..VERSUS..

NON-APPLICANTS

- : 1 **State of Maharashtra,**
Through Police Station Officer, P.S.
Jaripatka, Nagpur.
2. **Manish S/o. Kanhaiyalal Lakhwani,**
Age- 34 years, Occupation -Business
- 3 **Parmanand S/o. Budhaldas Lakhwani,**
Age- years, Occupation – Business
- 4 **Kanhaiyalal S/o. Budhaldas Lakhwani,**
Age-..... years, Occupation-Business
- 5 **Gaurav S/o. Kanhaiyalal Lakhwani,**
All R/o; Plot No.72, Bank Colony,
Jaripatka, Nagpur.

Mr O. S. Harwani, Advocate for Applicants.
Ms H. N. Prabhu, Addl. P. P. for Non-Applicant/State.
Mr A. A. Krishnan, Advocate for Non-Applicant Nos.2 to 5.

CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.
RESERVED ON : 6th OCTOBER, 2025.
PRONOUNCED ON : 12th NOVEMBER, 2025.

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

. Heard.

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

3. The applicants herein have approached this Court by filing the present application under Section 482 of the Code of Criminal Procedure, 1973 seeking to quash the First Information Report dated 10.03.2022 registered as Crime No.0140 of 2022 at Police Station Jaripatka, District Nagpur for the offences punishable under Sections 34, 385 and 448 of the Indian Penal Code, 1860 (hereinafter referred to as, "I.P.C.") as also the additional offences punishable under Sections 384, 341, 427, 504 and 506 read with Section 34 of the I.P.C., alongwith charge-sheet bearing No.4 of 2023 dated 07.01.2023.

4. As per the contents of the First Information Report lodged by the non-applicant No.2, the uncle of the non-applicant No.2 i.e. the non-applicant No.3 had rented one block/portion of the property to applicant No.1 - Darshanlal Kingrani and his family at a rent of Rs.2,300/- per month, while the other blocks/flats remained vacant and in possession of the non-applicants. It is alleged that during May – 2021, the applicants illegally took possession of the said vacant block and started using it. Further, on 23.05.2021, the non-applicant No.2 visited the property and asked the applicants to vacate the premises. Upon refusal of the applicants an altercation ensued and the non-applicant No.2 lodged a complaint at Jaripatka Police Station on 24.05.2021. Thereafter, on 29.05.2021, a meeting was convened between the parties to amicably resolve the dispute wherein, applicant No.1 demanded money from non-applicant No.2 to withdraw the police complaint. He also further threatened the non-applicant No.2 of filing false police complaint. It is further alleged in the First Information Report that on 10.03.2022, the applicant alongwith his family members consisting of his sister and two daughters barged into the

premises and took forcible possession of the western block. On the basis of these allegations, the First Information Report in question came to be lodged by the non-applicant No.1/State and the charge-sheet as stated above is filed. It is this First Information Report and the consequent charge-sheet which are challenged in the present application.

5. We have heard Mr. O. S. Harwani, learned counsel for the applicants, learned Mrs. H. N. Prabhu, learned Additional Public Prosecutor for the non-applicant/State and Mr. A. A. Krishnan, learned counsel for the non-applicant Nos.2 to 5.

6. Mr. Harwani, learned counsel for the applicants took us through the record of the matter and stated that perusal of the First Information Report in question would reveal that no offences much less as alleged in the First Information Report are made out. He submits that the dispute is essentially a civil dispute between a landlord and tenant and civil litigations are pending before the competent forum of law. It is his submission that only because the non-applicant Nos.2 to 5 could not get

the premises vacated, they have resorted to filing of criminal complaint against the applicants. In other words, it is the submission of the learned counsel for the applicants that the civil dispute has been given a colour of criminality and therefore, he pressed for quashing of the First Information Report and consequent charge-sheet.

7. Mrs. H. N. Prabhu, learned Additional Public Prosecutor, however, vehemently opposes the contentions made by the learned counsel for the applicants and states that from reading of the First Information Report at least *prima facie* offences complained of can be made out.

8. Mr. Krishnan, learned counsel for the non-applicant Nos.2 to 5 while adding to the contentions made by the learned Additional Public Prosecutor that the applicants being tenants have claimed possession over the property which was never tenanted and thus, the offence of criminal trespass is clearly made out.

9. Initially, the First Information Report was registered only under Sections 34, 385 and 448 of the I.P.C. Section 34 speaks about common intention while Section 385 speaks about putting a person into injury to commit extortion. It is not even the case of the first informant that he was put in some fear to allegedly extorted money of Rs.40 lakhs. In our view, therefore, an offence under Section 385 of the I.P.C. cannot be made out. Furthermore, the offence under Section 448 of the I.P.C. speaks about the house trespass. It is the case of the applicants that they are and were in possession of the premises as tenants; therefore, there cannot be any question of them committing house trespass, thereby leading to the commission of an offence under Section 448 of the I.P.C.

10. It can further be seen that while filing charge-sheet i.e. final report form under Section 173 of Cr.P.C., certain offences were added. Section 341 speaks about wrongful restraint. It is not even the case of the first informant that he was wrongfully restrained and therefore, the offence punishable under this section is also not made out. As far as Section 385 is

concerned, it speaks about hitting a person in fear of injury to commit extortion. As can be seen from the first information report and the consequent charge-sheet, there is no material indicating commission of offence punishable under this section. Furthermore, offence punishable under Section 448, which speaks about house trespass as already stated above cannot also be made out.

11. In that view of the matter, in our view, this is essentially a dispute between the landlord and tenant and therefore, the First Information Report in question and consequent charge-sheet cannot withstand the scrutiny of law.

12. The Hon'ble Apex Court in the recent judgment in the case of *A. M. Mohan vs. The State Represented by SHO and Another* [SLP (Criminal) No.9598 of 2022] has observed in para 10 of its judgment, which reads as under :

“The Court has also noted the concern with regard to growing tendency in business circles to convert purely civil disputes into criminal cases. The Court observed that this is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately

protect the interests of lenders/creditors. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of criminal settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.”

13. In G. Sagar Suri and Another vs. State of U. P., (2000) 2 SCC 636, the Hon'ble Apex Court observed that it is to be seen if a matter, which is essentially of a civil nature, has been given a cloak of criminal offence. Criminal proceedings are not short cut of other remedies available in law. It can thus be seen that dispute in the present matter is essentially a dispute between the landlord and tenant where, the landlord is seeking eviction of the tenant from the tenanted premises. In view of the material placed before us on record and considering the dictum of the Apex Court stated supra, we are of the considered view that the suit is essentially civil in nature. It would be therefore an abuse of the process of Court to continue the proceedings against the present applicants, in view of what we have observed above. We, therefore, pass the following order :

ORDER

- i) The criminal application is **allowed**.
- ii) The First Information Report dated 10.03.2022 registered as Crime No.0140 of 2022 at Police Station Jaripatka, District Nagpur for the offences punishable under Sections 34, 385 and 448 of the I.P.C. as also the additional offences punishable under Sections 384, 341, 427, 504 and 506 read with Section 34 of the I.P.C., alongwith charge-sheet filed in S.C.C. No.469 of 2023 pending before the 15th Joint Civil Judge Junior Division and JMFC, Nagpur are hereby quashed and set aside.

14. The application is disposed off in above terms.

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