IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL)NO.564/2024

Govinda S/o Ramaji Waghmare
Aged about 52 years, Occ.: Business,
R/o NIT Quarter No.310, Kamal Talkies
Road, Ashoknagar, Nagpur,
Tq. & District Nagpur.

... **APPLICANTS**

...VERSUS...

1. State of Maharashtra,
Through Police Station Officer,
Police Station Sadar, Nagpur City,
Tq. and District Nagpur
(Amendment carried out as per
Court's order dated 18.06.2024)

2. Sanjay Sukhdeo Gupta
Aged about 54 years, Occu: Business,
R/o Near Annapurna Mata Mandir
Gol Bazar, Gaddi Godam, Nagpur
Tq. & District Nagpur.

...**NON-APPLICANTS**

Shri P.R. Agrawal, Advocate for applicant
Ms Swati Kolhe, APP for non-applicant No.1/State
Ms P.N. Lakhani, Advocate for non-applicant No.2

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

RESERVED ON : 12.11.2025
PRONOUNCED ON : 28.11.2025

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

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

2. The Applicant has approached this Hon'ble Court by filing the present application under Section 482 of the Code of Criminal Procedure, 1973, seeking quashing of the First Information Report No. 0742/2023, dated 04.12.2023, registered at Police Station Sadar, Nagpur City, for offences punishable under Sections 420, 465, 467, 468, 471 read with Section 120(B) of the Indian Penal Code, 1860, as also, Regular Criminal Case No. 1252/2024, pending before the learned Judicial Magistrate First Class, Nagpur City.

3. As per the case of Non-Applicant No. 2, and in accordance with the contents of the First Information Report, dated 04.12.2023

Non-Applicant No. 2 was looking for a land to expand his business. In September 2020, one Krishna Thote, known to Non-Applicant No. 2 for nearly ten years, informed him that Govinda Waghmare could arrange NMC/NIT land on lease. Thereafter, Thote arranged a meeting with one Munna Yadav, who, along with Thote, introduced Non-Applicant No. 2 to Govinda Waghmare.

4. Non-Applicant No. 2 was thereafter approached by Govinda Waghmare (Applicant), Gopal Gaikwad, Rahul Balbudhe and Munna Yadav, representing that they could arrange 2 acres of Chikhli Devsthan land on a 99-year lease, and directing him to make payments only in the names specified by them. Subsequently, Gopal Gaikwad and Rahul Balbudhe removed Govind Waghmare (Applicant) and Munna Yadav from the deal, on the ground that the said land could not be transferred by stating that removing them would reduce the overall cost of obtaining the lease and then introduced Non-Applicant No. 2 to Nilesh Sambhare and Rupesh Thute. Relying on their representations, Non-Applicant No. 2 paid substantial amounts towards Chikhli Devsthan land, Babulkheda land, and later for a Nazul plot at Nelson Chowk, Jaripatka, after

being shown various land parcels and purported challans; however, upon inquiry, the order was found to be forged. Despite repeated requests, the amounts were not returned. However, Non-Applicant No. 2 was able to recover ₹7,30,000 from Govinda Waghmare (Applicant) through the bank. Thus, between 09.11.2020 and 05.07.2022, Govinda Waghmare(Applicant), Gopal Bhagwan Gaikwad, Rahul Harichandra Balbudhe, Nilesh Sambhare, and Rupesh Thute, dishonestly induced Non-Applicant No. 2 by showing lands at Chikhli Devsthan, Babulkheda, and Jaripatka, created forged documents, misrepresented Government processes, and collectively cheated him of ₹1,06,31,725.

5. We have heard Mr P.R. Agrawal, learned Counsel for applicant, Mrs. Swati Kolhe, learned Additional Public Prosecutor, for the Non-Applicant No. 1/State and Ms Parita Lakhani, learned Counsel for the Non-Applicant No.2.

6. Learned Counsel for the applicant submits that the First Information Report is a glaring example of abuse of process of law. He further submits that the grievance of Non-Applicant No. 2 arises

solely from alleged non-performance of assurances regarding procurement of leasehold land, which, at its core, constitutes a contractual dispute of purely civil nature. It is submitted that the allegations pertain to monetary transactions made pursuant to negotiations for securing land on lease, and the appropriate remedy available to Non-Applicant No. 2, lies under civil law for recovery of the amounts, if any. Thus, it is contended that a purely civil dispute has been given a colour of criminality, and the First Information Report, is, therefore, liable to be quashed.

7. It is submitted by the learned Counsel for the Applicant, that the Applicant himself stands as a victim of the fraudulent conduct of one namely, Gopal Bhagwan Gaikwad, who induced the Applicant to part with an amount of ₹7,30,000/- on the representation that he would arrange a plot in Nagpur, the Applicant being in need of the same. Acting on such representation, the Applicant paid an aggregate sum of ₹7,30,000/- to Accused No.1, on different dates and at different places. The entries reflecting the aforesaid payments were duly noted and were signed by Gopal Bhagwan Gaikwad.

8. It is submitted that despite receiving the aforesaid amount, Accused No.1 failed, over a considerable period, to show any plot to the Applicant, he demanded refund of the said paid amount. Subsequently, on or about 01.07.2021, a sum of ₹7,30,000/- was credited to the bank account of the Applicant. The Applicant was under a *bonafide* belief that the amount had been returned by Gopal Bhagwan Gaikwad, particularly as the latter was already in possession of his bank details. At that point of time, the Applicant had no reason to suspect any foul play, especially since the bank entry did not disclose the identity of the remitter.

9. It is further submitted that Applicant was summoned by Non-Applicant No. 1/ Police Station for inquiry. Upon his appearance, it transpired that the amount of ₹7,30,000/- had been credited from the bank account of the Non-Applicant No 2. The concerned officer also acknowledged that the Applicant had no concern with the transaction between the complainant and Accused No.1 or others. Acting on the advice of the police, and with a view to avoid further dispute, the Applicant agreed to return ₹7,30,000/- to the Non-Applicant No. 2 by issuing three cheques dated 21.04.2023,

09.06.2023 and 20.07.2023 for ₹3,00,000/-, ₹2,00,000/- and ₹2,30,000/- respectively. A Settlement Deed titled "आपसी समझोता" was executed on 17.04.2023, wherein Non-Applicant No. 2 expressly stated that he had no grievance against the Applicant and would raise no dispute in future.

10. It is submitted that Applicant himself lodged a complaint against Gopal Bhagwan Gaikwad, on 10.07.2023 at the Pachpawali Police Station, Nagpur, narrating the entire sequence of events.

11. Lastly, it is the submitted by the learned Counsel for the Applicant that even the Non-Applicant No. 2, in the First Information Report itself, has categorically stated that he has duly received and signed the settlement deed. It is further urged that there is an inordinate and unexplained delay in the filing of the FIR, which by itself casts serious doubt on the veracity of the allegations and suggests that the proceedings have been initiated as an afterthought. The aforesaid circumstances, taken cumulatively, demonstrate that the case set up by the prosecution is wholly false, frivolous, and actuated by *mala fides*, and that the continuation of

the criminal proceedings would result in a manifest abuse of the process of law.

12. Learned Additional Public Prosecutor, on the other hand, opposed the submissions advanced on behalf of the Applicant and submits that the mere existence of a civil dispute between the parties cannot, by itself, be a ground to quash the First Information Report, if the allegations, taken at their face value, *prima facie* disclose the commission of a cognizable offence.

13. It is further submitted by the learned Additional Public Prosecutor that the charge-sheet has already been filed on 10.04.2023 and, therefore, any interference by this Court at this stage would hamper the justice.

14. We have heard learned Counsels at length, as also perused the charge-sheet and perusal of the statements of the witnesses mentioned therein filed by the Investigating Agency after completion of the investigation in the charge-sheet, it becomes evident that no factual foundation is disclosed so as to attract the ingredients of the offences alleged. The only allegations against the

present Applicant is merely that he was present in the first meeting, and that an amount of ₹7,30,000/- came to be transferred into his bank account on 01.07.2021 at the instance of accused Gopal Bhagwan Gaikwad, and one other person.

15. Further, we cannot loose sight of the fact that in the present case, Non-Applicant No.2 has chosen to initiate the criminal proceedings only after an inordinate lapse of time. The record reveals that the Non-Applicant No.2 executed and signed the settlement deed with the Applicant on 17.04.2023, expressly acknowledging receipt of the amount and stating that he had no grievance whatsoever against the Applicant. Despite such unequivocal acknowledgment, the Non-Applicant No.2 thereafter proceeded to lodge the First Information Report on 04.12.2023, i.e., eight months after the settlement. Such unexplained and belated initiation of criminal proceedings, particularly after a duly executed settlement between the parties, speaks otherwise and casts a serious doubt.

16. In a recent judgment of the Hon'ble Apex Court in the case of

A.M. Mohan Vs. State represented by SHO and another, reported in ***(2024) 12 SCC 181***, in para 18 the Hon'ble Apex Court has held as under:

> *"18. The law with regard to exercise of jurisdiction under Section 482 of Cr.P.C. to quash complaints and criminal proceedings has been succinctly summarized by this Court in the case of Indian Oil Corporation v. NEPC India Limited and Others1 after considering the earlier precedents. It will be apposite to refer to the following observations of this Court in the said case, which read thus: "12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions.*
>
> *To mention a few-Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234], State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426], Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059], Central Bureau of Investigation v. Duncans Agro Industries Ltd. [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045], State of Bihar v. Rajendra Agrawalla [(1996) 8 SCC 164 : 1996 SCC (Cri) 628], Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401], Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615], Hridaya Ranjan Prasad Verma v. State of Bihar [(2000) 4 SCC 168 : 2000 SCC (Cri) 786], M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful*

Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283]. The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the

offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.

13. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. 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. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families.

There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent 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. In G. Sagar Suri v. State of U.P. [(2000) 2 SCC 636 : 2000 SCC (Cri) 513] this Court observed: (SCC p. 643, para 8) ‘

8…….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 a short *cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which the High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice.'*

14. While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step that can be taken by the courts, to curb unnecessary prosecutions and harassment of innocent parties, is to exercise their power under Section 250 CrPC more frequently, where they discern malice or frivolousness or ulterior motives on the part of the complainant. Be that as it may."

17. Furthermore, in the same judgment in para 20 this Court has held as under :

This Court, in the case of Prof. R.K. Vijayasarathy and Another v. Sudha Seetharam and Another has culled out the ingredients to constitute the offence under Sections 415 and 420 of IPC, as under:

"15. Section 415 of the Penal Code reads thus:

__415. Cheating__.- Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat"."

16. The ingredients to constitute an offence of cheating are as follows:

16.1. There should be fraudulent or dishonest inducement of a person by deceiving him:

16.1.1. The person so induced should be intentionally induced to deliver any property to any person or to consent that any person shall retain any property, or

16.1.2. The person so induced should be intentionally induced to do or to omit to do anything which he would not do or omit if he were not so deceived; and

16.2. In cases covered by 16.1.2. above, the act or omission should be one which caused or is likely to cause damage or harm to the person induced in body, mind, reputation or property.

17. A fraudulent or dishonest inducement is an essential ingredient of the offence. A person who dishonestly induces another person to deliver any property is liable for the offence of cheating. 18. Section 420 of the Penal Code reads thus: "

__420. Cheating and dishonestly inducing delivery of property__.- Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or *any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."*

19. The ingredients to constitute an offence under Section 420 are as follows:

19.1. A person must commit the offence of cheating under Section 415; and

19.2. The person cheated must be dishonestly induced to (a) deliver property to any person; or (b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security.

20. Cheating is an essential ingredient for an act to constitute an offence under Section 420."

18. Furthermore, the offences complained of are under Section 120, 120-B, 420, 465, 467, 468, and 471. As already discussed above, there is no question of an offence punishable under Section 420 being made out from the plain averments in the First Information Report. Furthermore, as far as offences under Section 465, 467, 468 and 471 are concerned, they speak about punishment for various types of forgery. Forgery as defined in Section 463 contemplates making of any false document or false electronic record with intent to cause damage or injury to the public

or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed. A meaningful reading of the First Information Report in question and the statements of the witnesses recorded in pursuance of the investigation would clearly reveal that no offence pertaining to forgery can be made out from the same.

19. In the backdrop of these facts, we are of the opinion that no offence under various sections mentioned in the First Information Report are made out since the First Information Report and the consequent charge-sheet filed after investigation hopelessly fails to make out a case for offences under said Sections. Continuing the prosecution against the Applicant would, therefore, be an abuse of process of law. The situation would squarely fall within the various parameters laid down by the Hon'ble Supreme Court in the case of ***State of Haryana and others Vs. Ch. Bhajan Lal and others, reported in 1992 Supplementary (1) SCC 335*** and more particularly clause 1,3 and 7 of para 102 of the judgment.

> *1. 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.*
> *3. 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.*
> *7. 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."*

20. We are, therefore, of the considered view that this is a case where powers under Section 482 of the Criminal Procedure Code are to be exercised. Hence, we proceed to pass the following order :

ORDER

1. The application is allowed.

2. The First Information Report No. 0742/2023, dated 04.12.2023, registered at Police Station Sadar, Nagpur City, for offences punishable under Sections 420, 465, 467, 468, 471 read with Section 120(B) of the Indian Penal Code, 1860, as also,

Regular Criminal Case No. 1252/2024, pending before the learned Judicial Magistrate First Class, Nagpur City, are hereby quashed and set aside to the extent of the present applicant namely Govinda S/o Ramaji Waghmare..

21. The application is disposed of in the above terms.

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

Jayashree..