



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

CRIMINAL APPLICATION (APL) No.1640 OF 2024

(M/s. Heera Group of Companies (through its Managing Director) and another Vs. The
State of Maharashtra, through PSO, P.S. Old Kamptee, Distt. Nagpur and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Saurabh Singha a/w. Tamanna Sheikh, Advocate for Applicants.
Mr. G.S. Umale, APP for Non-applicant No.1.
Mr. Laique Hussain, Advocate for Non-applicant No.2.

CORAM : ANIL S. KILOR AND PRAVIN S. PATIL, JJ.
DATE : 2nd MAY, 2025.

1. The application is filed under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 for quashing and setting aside the Charge-sheet No.10/2021, dated 20.2.2021 (in Special Case No.134/2021) filed in F.I.R. No.8/2020, dated 11.1.2020 registered with Police Station Old Kamptee, District Nagpur City for the offences punishable under Sections 420, 406 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors Act (In Financial Establishments) Act, 1999.

2. It is the case of the prosecution that in the month of September 2017 the complainant through his relatives, came to know that applicant No.1 works through Islamic modes of business and gives good returns to the investors of the company. Thereupon, he met the informant and made inquiry and invested the amount. It is alleged that initially he received returns as promised. However, subsequently, he did not

receive the returns and, therefore, complaint came to be lodged.

3. After receipt of the notice in the present application, the complainant filed his reply on affidavit stating that he has now received the complete amount that which was invested by him.

4. Even otherwise, considering the fact that initially the applicant paid some amount to the complainant it cannot be said that there was dishonest intention of the applicant since beginning. Thus, in absence of such allegation or any material to suggest such dishonest intention since beginning, Section 425 of the Indian Penal Code will not apply.

5. Furthermore, the period during which the complainant did not receive the returns. During the said period the applicant was in jail and that was the reason for not making the payment to the complainant.

6. The said fact also suggest that there was no intention of the applicant to cheat or commit any breach of trust. However, because of compulsion of situation he could not make payment to the complainant.

7. In that view of the matter, we are of the opinion that Section 406 of the Indian Penal Code will not attract in this case. In the circumstances, we pass the following order :

ORDER

- (i) The application is allowed.
- (ii) The Charge-sheet No.10/2021, dated 20.2.2021 (in Special Case No.134/2021) filed in F.I.R. No.8/2020, dated 11.1.2020 registered with Police Station Old

Kamptee, District Nagpur City for the offences punishable under Sections 420, 406 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors Act (In Financial Establishments) Act, 1999 is hereby quashed and set aside.

(iii) The application is disposed of.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)

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