IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2017 OF 2025

1. Salama Begum Gauskhan Pathan.
2. Gauskhan Miyakhan Pathan.
3. Shahrukhkhan Gauskhan Pathan. ..Applicants

VERSUS

1. The State of Maharashtra
2. Madhukar Manikrao Phad. ..Respondents

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Shri Dhananjay M. Shinde, Advocate for the Applicants.
Shri C. V. Bhadane, APP for respondent No.1/ State.
Smt. Charita S. Deshmukh, Advocate for respondent No.2/ informant.

(CORAM : SUSHIL M. GHODESWAR, J.)

DATE : 29th OCTOBER, 2026

PER COURT :

1. By this Application filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Section 482 of the Code of Criminal Procedure), the applicants are seeking quashing of FIR bearing Crime No.216 of 2025 dated 11/04/2025 registered with the Bhagya Nagar Police Station, Dist. Nanded, for the offences punishable under Sections 406, 504, 506 read with Section 34 of the Indian Penal Code. By way of amendment, the applicants have also challenged charge-sheet, proceedings bearing R.C.C. No.787 of 2025 pending before learned Judicial Magistrate, First Class, Nanded and order of issuance of process dated 30/06/2025.

2. As per the report lodged by respondent No.2/informant, an agreement was executed between informant and applicant No.1 on 16/01/2019 for construction of about 3000 sq. ft. and certain repair works on the plot of applicant No.1 for total consideration of Rs.39,00,000/-, out of which Rs.29,00,000/- was received by informant. The construction was to be completed within three months and the balance amount was to be paid within ten months after completion. According to informant, some additional construction was carried out at the instance of the applicants, for which he claimed Rs.1,95,000/-. Though he demanded the balance amount of Rs.11,95,000/-, the applicants avoided to pay the same. It is further alleged that on 18/12/2024, after the informant and applicant No.1 were called to the police station and because of that in the evening, the applicants threatened complainant at Macchi Market. On the basis of these allegations, the aforesaid FIR came to be registered.

3. After completion of investigation, charge-sheet came to be filed and proceedings bearing R.C.C. No.787 of 2025 are pending before learned Judicial Magistrate, First Class, Nanded, who issued process against the applicants vide order dated 30/06/2025.

4. Learned advocate for the applicants submitted that the dispute between applicant No.1 and the informant is purely civil in nature, arising out of a construction agreement. Since 2019, applicant

No.1 and informant both have exchanged legal notices regarding the incomplete work and the amount payable. The informant had earlier filed Misc. Criminal Application No.633 of 2023 seeking a direction under Section 156(3) of the Code of Criminal Procedure on similar allegations, which came to be rejected on 04/10/2023 by observing that the dispute is civil and contractual in nature and there is nothing in compliant to suggest that accused has dishonest intention. The parties are also litigating against each other in proceedings under the Negotiable Instruments Act and in a civil suit. It is further submitted that applicants are innocent and seem to be roped in the offence based on civil transaction that to after dismissal of application seeking registration of FIR on merit. Applicant Nos.2 and 3 are not parties to the agreement and have been roped in merely being family members of applicant No.1, and the allegation of threat is vague. Therefore, continuation of the prosecution would be an abuse of process of law. Hence, he prayed for quashing of aforesaid FIR and proceeding arising out of said FIR.

5. Per contra, learned APP appearing for the respondent/ State as well as learned advocate appearing for respondent No.2/ informant strongly opposed the application. They submitted that charge-sheet contains sufficient material against the applicants, and whether the transaction is civil or criminal in nature is a matter to be

decided at the trial. Hence, they prayed for rejection of the application.

6. The Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal***, 1992 Supp (1) SCC 335, laid down the categories of cases in which the High Court may exercise its inherent powers to quash criminal proceedings. In ***Paramjeet Batra v. State of Uttarakhand***, (2013) 11 SCC 673, and ***Randheer Singh v. State of Uttar Pradesh***, (2021) 14 SCC 626, it has been held that where a dispute is essentially of a civil nature and has been given a cloak of criminal offence, the criminal proceedings deserve to be quashed, as criminal law cannot be used as a tool for settling civil disputes or for recovery of money. Further, in ***Delhi Race Club (1940) Ltd. v. State of Uttar Pradesh***, (2024) 10 SCC 690, the Hon'ble Supreme Court reiterated that entrustment of property and its dishonest misappropriation or conversion are the essential ingredients of the offence of criminal breach of trust, and mere failure to pay money due under a contract does not constitute such offence.

7. After going through the FIR and the material in the charge-sheet, it is evident that the entire grievance of the informant arises out of construction agreement dated 16/01/2019 entered into between him and applicant No.1. It is the informant who received Rs.29,00,000/- under the agreement and his grievance is that the balance amount has not been paid. No property of the informant was ever entrusted to the applicants. At the most, non-payment of the balance consideration

would amount to breach of contract, for which the remedy lies before the civil Court. The ingredients of Section 406 of the Indian Penal Code are, therefore, not attracted. It is also significant that informant's earlier attempt to set the criminal law in motion on similar allegations was turned down by learned Magistrate on 04/10/2023, holding the dispute to be civil in nature, and the FIR came to be lodged thereafter. Applicant Nos.2 and 3 are not even parties to the agreement.

8. Insofar as the offences under Sections 504 and 506 of the Indian Penal Code are concerned, FIR merely states that the accused persons threatened the informant at Macchi Market on 18/12/2024. Neither the words allegedly uttered nor the role of each applicant is stated. Such a bald allegation does not disclose any intentional insult with intent to provoke breach of peace or any threat with intent to cause alarm. The allegation appears to have been added only to give a criminal colour to a civil dispute.

9. In view of the aforesaid discussion, the dispute is essentially civil in nature and the criminal proceedings have been initiated to pressurize the applicants for recovery of money. Continuation of the prosecution would amount to an abuse of process of the Court. Therefore, in order to secure the ends of justice, the application deserves to be allowed. Hence, the following order:

ORDER

(a) The Criminal Application is allowed.

(b) FIR bearing Crime No.216 of 2025 dated 11/04/2025 registered with the Bhagya Nagar Police Station, Dist. Nanded, for the offences punishable under Sections 406, 504, 506 read with Section 34 of the Indian Penal Code, charge-sheet filed in pursuance thereof and proceedings bearing R.C.C. No.787 of 2025 pending before learned Judicial Magistrate, First Class, Nanded, including the order of issuance of process dated 30/06/2025, are hereby quashed and set aside to the extent of the applicants.

(SUSHIL M. GHODESWAR, J.)