IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3420 OF 2022

Prasad s/o Nimba Sonar .. Applicant

versus

The State of Maharashtra & another .. Respondents

Mr. S. B. Bhapkar, Advocate for the Applicant.
Mr. S. B. Narwade, APP for the State.
Mr. G. V. Wani, Advocate for Respondent No.2.

CORAM : R. M. JOSHI, J.
DATE : 2nd NOVEMBER, 2026.

PER COURT :

1. This application is filed seeking quashment of First Information Report bearing Crime No. 0332/2022 registered with Zilla Peth Police Station, Jalgaon, for the offences punishable under sections 420, 406 r/w 34 of Indian Penal Code and consequent charge-sheet bearing No. 106/2023 in RCC No. 524/2023 pending before the Chief Judicial Magistrate, Jalgaon under Sections 420, 120-B, 465, 467, 468, 469, 471, 474, 500 r/w 34 of Indian Penal Code.

2. Brief facts of the case can be narrated as under :-

Vilas Dongarlal Jaiswal lodged the First Information Report against the Applicant. Since 2008, he had known the Applicant,

Prasad Sonar, who is an employee at the State Bank of India, Mahabal Branch, Jalgaon. It is alleged that Applicant gained the informant's trust by claiming that standard bank interest rates were low and inducing him to invest money through an online software operated by co-accused Vipul Lakhichand Chaudhari, under which 10% to 15% interest was given to them and 5% interest was to be paid to the informant. Pursuant to this, the informant gave a cheque of Rs. 5 Lakhs to the Applicant in September 2017 which was cleared on 31.10.2017 under the name of "Profit Mart" and debited from the informant's Peoples Bank account. Informant further alleged that initial returns were reflected online and withdrawn by him and on 03.05.2018 informant gave a second cheque of Rs. 5 Lakhs. Thereafter from 2018 monthly 5% profits eventually reduced and stopped. When the informant inquired the same to the Applicant, he provided cheques drawn on Yes Bank and ICICI Bank by co-accused as security, assuring that the funds could be recovered if online returns failed within two months. However, upon deposit, all these cheques were dishonored and returned unpaid, confirming that the accused had cheated the informant. It is alleged that during the period of 2017 to 2018, under the influence of the Applicant and the co-accused, Pritish Shantaram Naik, Vidya Shantaram Naik and

Kalpana Laxmikant Naik deposited approximately Rs. 25 Lakhs, Rs. 5 Lakhs and Rs. 27 Lakhs respectively. It is alleged that the Applicant and co-accused, acting with dishonest intent and criminal breach of trust, induced the victims with false promises of profitable investments for their own financial gain, thereby cheating the informant and others of a total aggregate sum of Rs. 38,87,500/-. Therefore, the informant filed the present First Information Report.

3. Herein this case, admittedly on 25.09.2019 an application was moved before the Magistrate under Section 156(3) of the Code of Criminal Procedure by the contesting Respondent. The Magistrate instead of directing registration of First Information Report, by order dated 29.11.2019 took cognizance of complaint and directed enquiry under Section 200 of the Code of Criminal Procedure seeking report of the concerned police station. The enquiry was directed after recording statements of witnesses under Section 200 of Code of Criminal Procedure. On 12.10.2020, Respondent filed criminal revision No. 51/2020 taking exception to the order dated 29.11.2019 rejecting prayer for registration of First Information Report. Another revision bearing No. 77/2021 came to be filed challenging order of direction of enquiry under Section 200 of CrPC.

4. On 21.05.2022, First Information Report came to be registered on the basis of same averments/cause of action, which is subject matter of proceedings before the Magistrate. While recording the said First Information Report, there is no statement/disclosure about the said relevant fact of pendency of proceeding before Competent Court. Pertinently, not only criminal revisions filed before Sessions Court were withdrawn, the complaint before Magistrate also came to be withdrawn on 30.08.2022.

5. Learned Advocate for the Applicant submits that once cognizance was taken by the Magistrate in respect of the substantially same facts, it was not open for the police to register the First Information Report. According to him, the First Information Report filed by the Respondent is by suppression of material facts so also playing fraud upon the Court and as such First Information Report and consequent charge-sheet filed would not be tenable. He argues that since cognizance was taken by the Magistrate of the complaint, it was not open for the police to register the First Information Report and to investigate into it. A grievance is made that there was obstruction created by Respondent for police to submit report to the Magistrate pursuant to order passed under Section 202

of Code of Criminal Procedure. Apart from this, it is his submission that even otherwise there is no offence made out against the applicant and hence, it is a fit case for quashment of First Information Report and consequent proceedings.

6. Learned Counsel for Respondent/Informant submits that now since charge-sheet has been filed, there is no impediment in permitting the trial to be conducted. To support his submissions, he placed reliance on the judgment in case of Pramod Kumar Shukla vs. State of Uttar Pradesh and others, **2026 DGLS(SC) 922**. In alternate, it is his submission that if this Court is inclined to quash First Information Report and proceedings, the criminal revision as well as complaint before Magistrate, need to be restored since the disposal of the same was on the basis of registration of First Information Report.

7. Learned APP drew attention of the Court to the provision of Section 210 of Code of Criminal Procedure which according to him takes care of the situation in hand and that the prayer for quashment need not be considered.

8. There is no dispute about the fact that Respondent preferred application under Section 156(3) of Code of Criminal Procedure seeking direction to register First Information Report. The competent Court did not find it to be case to do so and hence, after recording the statement of witnesses, issued order under Section 202 of Code of Criminal Procedure calling upon concern police station to submit report. The Respondent takes exception to both orders by preferring revision before Sessions Court. These facts indicate complete knowledge of the Respondent about the orders passed and cognizance being taken of complaint by competent Court.

9. In spite of these facts, informant/Respondent gets First Information Report registered without disclosing the above material and relevant facts. It is not question of registration or not of First Information Report but it would be a question of propriety. It is for the Court to decide whether to permit the parties to bend laws for convenience and by utter suppression of material facts to seek desired result. This Court is of considered view that any act done by a party maliciously and suppressing the correct facts, cannot be allowed to be perpetuated, to encourage others to follow same course of action/path.

10. In the instant case, wisely Respondent withdrew revision applications and consequently complaint before Magistrate, once he achieves his goal by adopting desired tactics. It is then, claimed as to what is harm if the First Information Report and consequent proceedings are allowed to go on. In the facts of the case and having regard to the manner in which things are got done by Respondent, this Court finds no justification to render any confirmation to it directly or indirectly.

11. As far as Section 210 of Code of Criminal Procedure is concerned, the pre-condition of application of the said provision is that it could be brought to the notice of the Magistrate about pendency of any First Information Report and investigation being done by the concerned police into the same. Admittedly, herein no such stage has ever occurred in the instant case. To say it is a alternate remedy would be misreading of the relevant provision. The powers of this Court under Section 482 of Code of Criminal Procedure cannot be taken way in such manner.

12. The First Information Report and consequent proceedings cannot be given legitimacy and that the same deserve to be quashed.

Now once it is quashed, question arises as to whether the consequential order passed by the concerned Court in revision as well as complaint would sustain since their withdrawal was on the basis of First Information Report registered subsequently.

13. The answer to this query would be in candid negative for the reason that though the Respondent's conduct of getting First Information Report registered mischievously is not legal but that would not lead to the conclusion that no offence is committed in this case. Once the First Information Report goes, there is no justification for sustaining the orders passed by the revisional Court as well as the Magistrate in the complaint. Needless to say that allowing this application would lead to revival of those proceedings. It is for the parties to take appropriate steps in the said proceedings as per law.

14. In view of the above, application stands allowed in terms of prayer clauses 'B', 'C-1', 'C-2' and 'C-3' with other directions recorded above.

(R. M. JOSHI, J.)

dyb