



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 432 OF 2024

1. RAHUL NANARAO NARWADE
2. VANDANA W/O. RAHUL NARWADE @
VANDANA D/O. TULSIRAM INGOLE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Deshmukh Umakant B.

APP for Respondent No. 1 : Mr. V.S. Badakh

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CORAM : RAJNISH R. VYAS, J.

DATE : 02ND APRIL, 2026

PER COURT :

1. Heard learned Advocate Mr. Umakant Deshmukh and learned APP Mr. Badakh. None appears though served for non-applicant no. 2.

2. The challenge in this application is to the registration of First Information Report No. 347/2021, dated 11.11.2021, registered with Vimantal Police Station, District Nanded, for commission of offence punishable under Sections 420, 467, 468, 471 and 34 of the Indian Penal Code, at the instance of original accused nos. 3 and 4 mentioned in the FIR.

3. Mr. Deshmukh, learned counsel for the applicant has contended that the FIR fails to disclose any commission of cognizable offence. He submitted that the ingredients of offence are not attracted. According to him, accused nos. 1 and 2 had executed an agreement to sell regarding an immovable property with the informant on 13.12.2003, and again the said property was transferred by way of a registered conveyance deed in favour of accused no. 3 vide conveyance deed dated 12.12.2018, which can be said to be purely commercial transaction. He thus, submitted that civil dispute is tried to be converted into a criminal case by the non-applicant no. 2 / complainant who is working with the police department.

4. Per contra, learned APP has submitted that though chargesheet is not filed in the present case, the allegations made in the FIR are very specific that the same property which was earlier transferred by original accused nos. 1 and 2, in favour of complainant was transferred again in favour of the original accused no. 3. He thus submitted that since the provision of Section 34 of the Indian Penal Code, is also invoked, the question of accused persons sharing common intention can be decided only during the course of trial. He thus, prayed for dismissal of the application.

5. With the assistance of both the counsels, I have gone through the record of the case and have given thoughtful consideration to the arguments advanced.

6. The FIR No. 347/2021, was lodged by non-applicant no. 2 with non-applicant no. 1 – Police Station on 11.11.2021, on the basis of which offences punishable under Sections 420, 467, 468, 471, 34 of the Indian Penal Code, were registered against four accused. Non-applicant No. 2 – Complainant, in his report has contended that he is working on the post of Police Naik with Police Head Quarter, Nanded, and on 20.06.2003, he had purchased plot bearing no. 71 admeasuring 1200 sq.mtrs. for valuable consideration of Rs. 85,000/- from accused no. 2 – Padminbai. Out of the total consideration, he had paid advance of Rs. 50,000/- at the time of execution of agreement to sale. The remaining amount of Rs. 35,000/- was agreed to be paid at the time of execution of sale deed.

7. It is alleged in the FIR that on 30.12.2003, remaining amount of Rs. 35,000/- was paid by the informant in presence of the witnesses to the Chairman of Nalanda Magaswargiy Society, Mr. Pundlikrao Khanderao Sonkamble / accused no. 1 in the FIR. The informant then alleged that on 04.01.2024, the transfer certificate was

issued in favour of the informant regarding the aforesaid property and since then, the aforesaid property was in possession of the informant.

8. It was alleged in the FIR that on 12.12.2018, the same plot was sold by original accused nos. 1 and 2 to original accused no. 3. It was also alleged that when informant found himself to be cheated, he informed the aforesaid fact to accused nos. 3 and 4, and in spite of it, the conveyance deed got executed by accused nos. 3 and 4.

9. It is in this background, contentions of respective counsels are tested. At the outset, it is necessary to note that the transaction by original accused nos. 1 and 2 was entered into with the informant on 30.12.2003, on which date, the agreement took place. The FIR was registered on 11.11.2021. The conveyance deed in favour of applicant no. 2 / original accused no. 3, was executed on 12.12.2018. Thus, it is crystal clear that there is a delay in lodging the FIR. It is worth noting that document filed on the record clearly shows that the informant had filed Regular Civil Suit No. 510/2019, before the Civil Judge, Senior Division, Nanded, against original accused no. 2, original accused no. 3 and Nalanda Magaswargiya Co-Operative Housing Society, on 09.12.2019, in which, the following prayers are made :

“A) It be declared that, Conveyance Deed executed by defendant No. 1 in favour of defendant No. 2 with the consent of defendant No. 3 in respect of plot No. 71 out of Gut no. 173 (survey no. 55) of Nalanda Magasvargiya Co-Op. Housing Society Ltd., situated at Sangvi (Bk), Nanded, adm. In Length : South-North 40 ft., Width: east-west 30 ft. bounded by East :- plot no. 70, West : Plot no. 72, South : Plot no. 64, North : Road. Bearing regd. No. 7178/2018 dated 12/12/2018 is illegal, unauthorized, ineffective and not binding upon the plaintiff.

B) A decree of perpetual injunction may kindly be passed by restraining defendants from causing any sort of obstruction and interference in the peaceful possession of plot No. 71 out of Gut no. 173 (survey no. 55) of Nalanda Magasvargiya Co-Op. Housing Society Ltd., situated at Sangvi (Bk), Nanded adm. In length : South-north 40 ft., Width : east-west 30 ft. bounded by East : plot no. 70, West : Plot no. 72, South : Plot no. 64, North : Road.

C) Any other relief may kindly be decreed in favour of plaintiff and oblige.”

10. In pursuance with the suit summons, defendant no. 2 therein who is applicant no. 2 in the present proceeding had filed her written

statement in the month of March, 2020. Record further shows that even an application under Order VII Rule 11 of the Code of Civil Procedure, for rejection of plaint was filed by accused no. 3 in the said case. Learned counsel for the applicant submitted that the civil suit is still pending before the competent Court of law.

11. It thus needs no explanation that the rights and liabilities of the parties are subject matter of the civil suit and same shall be determined by the civil Court. The documents filed on record further shows that it was by way of registered conveyance deed applicant no. 1 had purchased the property for valuable consideration of Rs. 8,15,000/-. Thus, the dispute between the parties is purely of civil nature. The FIR nowhere shows that either any forgery is committed or any fraudulent representation was made by the present applicants at initial stage on which the informant has acted. Thus, neither the ingredients of Section 420 of the IPC nor Sections 467, 468 and 471 so also, Section 34 of the IPC, are made out. The delay in lodging FIR is also one of the additional factors which goes in favour of the present applicants. The pendency of civil suit also shows that the dispute between the parties is predominantly of civil nature, in peculiar facts and circumstances of the case. The dispute essentially pertains to competing claims over title and possession

of immovable property, which squarely falls within the domain of civil law. Initiation of criminal proceedings in such circumstances appears to be an attempt to exert pressure.

12. Hon'ble Apex Court in case of **State of Haryana and Others Versus Bhajanlal and Others, 1992 Supp (1) SCC 335**, has categorically stated that if FIR fails to disclose the commission of cognizable offence, then the criminal prosecution can be quashed.

13. In the light of the aforesaid discussion, I am inclined to pass the following order :

ORDER

- i. Criminal Application is allowed.
- ii. The First Information Report No. 347/2021, dated 11.11.2021, registered with Vimantal Police Station, District Nanded, for commission of offence punishable under Sections 420, 467, 468, 471 and 34 of the Indian Penal Code, qua the present applicants is quashed.

(**RAJNISH R. VYAS, J.)**