



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

CRIMINAL APPLICATION (APL) NO. 528 OF 2025

1. **Mr. Chandrakant s/o Balaram Ghodeswar** **APPLICANT**
Aged about 44 years,
Occupation : Private,
R/o Flat No.401, Hill View Society,
Hill View Apartment, Dhabba Road,
Near Buddha Vihar Nagpur

// V E R S U S //

1. **The State of Maharashtra,** **NON-APPLICANTS**
Through Police Station Officer,
Police Station Gittikhadan,
Nagpur
2. **Swapnil s/o Shivlochan Mishra**
Aged about 35 years,
Occ. Business,
R/o Vaishali Nagar, Hinghanghat
Road MIDC, Nagpur

Mr. R.P. Durge, Advocate for the applicant.
Mr. A.M. Kadukar, APP for non-applicant No.1/State.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 23.02.2026

ORAL JUDGMENT :

1. Heard.

2. **ADMIT.** Taken up for final disposal with the consent of learned counsel for the parties.

3. None appears for the non-applicant No.2 despite the service of notice.

4. The present application is preferred by the applicant for quashing of the First Information Report in connection with crime No.191/2025 registered with the non-applicant No.1-Police Station Gittikhadan District Nagpur under Sections 406 and 420 read with 34 of the Indian Penal Code (for short, 'IPC').

5. The crime is registered on the basis of report lodged by non-applicant No.2 on an allegation that present applicant was acquainted to him as he is also resident of Nagpur. On 10.08.2020 present applicant approached to the non-applicant No.2 along with Shishir Vasant Siras and disclosed that said Shishir Vasant Siras is in need of financial assistance and decided to sell out his property. Therefore, he agreed to purchase the said property and they entered into the transaction. The earnest amount is already paid to the owner of the agricultural property. It is further alleged

that, subsequently, it revealed that property is already mortgaged with the bank and without obtaining no objection certificate from the bank and without deleting the charge over the said property it was sold out to the complainant and thus, he is deceived by the present applicant as well as other co-accused. It is further alleged that the said property was auctioned by the bank and therefore, loss is caused to the present complainant. On the basis of the said report, police have registered the crime against the present applicant.

6. Heard learned counsel for the applicant who submitted that except act of introducing other co-accused with the complainant no other role is attributed to the present applicant. Thus, no offence is made out against the present applicant so as to attract the offence punishable under Section 420 of the IPC the intention since inception is required. He submitted that the offence under Section 406 of IPC is also not attracted against the present applicant as in order to constitute criminal breach of trust there must be entrustment with the person for property or dominion over property. The entrustment of the property is not with the present applicant or there was no dominion over the

property. Therefore, offence under Section 406 of the IPC is also not made out. He further submitted that the offences under Sections 420 and 406 of the IPC will not coexist together as the complainant came with the case that he was cheated by the present applicant, however, there was no criminal breach of trust. In view of that, application deserves to be allowed.

7. Per contra, learned APP strongly opposed the said contention and submitted that it was the present applicant who has introduced other co-accused with the complainant. The other co-accused entered into transaction and not disclosed that there is a charge over property and sold out the property to the complainant by taking the consideration amount and subsequently it revealed that property is already mortgaged against the bank loan and thereby complainant is cheated. In view of that application deserves to be rejected.

8. After considering the rival submissions of both the parties and on perusal of the entire investigation papers, it reveals that except the role of introducing other co-accused with the complainant no other role is attributed to the present applicant.

9. Thus, in order to constitute criminal breach of trust under Section 406 of the IPC :- the following ingredients are required/necessary.

(1) There must be entrustment with person for property or dominion over the property, and

(2) The person entrusted;

(a) Dishonestly misappropriated or converted property to his own use, or

(b) Dishonestly used or disposed of the property or wilfully suffers any other person so to do in violation of:

(i) Any direction of law prescribing the method in which the trust is discharged; or

(ii) Legal contract touching the discharge of trust.

10. Similarly to constitute an offence under Section 420 of IPC there has to be (1) Deception of any person, either by making a false or misleading representation or by other action or by omission; (2) Fraudulently or dishonestly inducing any person to deliver any property, or (3) The consent that any person shall

retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit.

11. As far as the present applicant is concerned admittedly except the role of the introduction of other co-accused with the complainant there is no other role attributed to the present applicant. There was no entrustment with the present applicant for property or dominion over the property. There was no deception as no monetary gain is received by the present applicant. Thus, on plain reading of the complaint as well as the entire investigation papers it fails to spell out any of the aforesaid ingredient noted above against the present applicant. For all above these grounds the application deserves to be allowed.

12. Hence, I proceed to pass the following order:-

ORDER

- (i) The Criminal Application is allowed.
- (ii) The First Information Report in connection with crime No.191/2025 registered with the non-applicant No.1-Police Station Gittikhadan District Nagpur under Sections

406 and 420 read with 34 of the Indian Penal Code is quashed and set aside to the extent of applicant-Chandrakant s/o Balaram Ghodeswar.

13. The criminal application stands disposed of in the above said terms.

Pending applications, if any, also stand disposed of.

(URMILA JOSHI PHALKE, J.)

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