



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.1985/2025

(Vasant S/o Namdeo Akhare and others Vs. State of Maharashtra, through Police Station, Wardha, District Wardha 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. K.J. Topale, Advocate for the applicants.
Mr. N.B. Jawade, A.P.P. for the non-applicant No.1/State.

CORAM: MRS. VRUSHALI V. JOSHI, J.
DATED: 17.4.2026.

The applicants have filed this application for quashing and setting aside the F.I.R. No.1611/2025, registered with Police Station, Wardha, for the offence punishable under Sections 316(2), 318(4) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short "B.N.S.").

2. It is the prosecution's case that the applicants agreed to sell their house which is situated at Arvi to the non-applicant No.2, the agreement was executed and the non-applicant No.2 has paid Rs.7,00,000/- to the applicants. Thereafter the applicants denied the agreement, denied to execute the sale deed and refund the amount. Therefore, the non-applicant No.2 has lodged the F.I.R. against the applicants and crime came to be registered.

3. The learned Advocate for the applicants has stated that, the non-applicant No.2 has given criminal colour to the civil litigation. He has remedy to file the civil litigation for specific performance. There is no agreement between the parties and, therefore, there is no question of returning the amount. He has relied on the judgment of the Hon'ble Apex Court in *Vandana Jain and others V/s. State of Uttar*

Pradesh and others, 2026 SCC OnLine SC 309 in support of his argument that in the event of breach of any of the conditions of the agreement, an appropriate course was to take recourse to civil remedy. He has also relied on the judgment of the Hon'ble Apex Court in *Radheshyam & Ors. V/s. State of Rajasthan & Anr.* in Criminal Appeal No.3020/2024 arising out of Special Leave Petition (Cri.) No.13675/2023) wherein it is observed that every civil wrong cannot be converted into criminal wrong. As the civil remedy is available and there is no agreement between both the parties, prayed to quash and set aside the F.I.R. registered against the applicants.

4. The learned Advocate for the non-applicant No.2 has brought to the notice of this Court that the agreement was notarized. The applicants have signed the register of the Notary. During the investigation the statement of the witnesses were recorded and as per the statements it is proved that there was agreement between both the parties and amount was given in presence of the witnesses and it is admitted by the applicant. There was theft in the house of the applicants and they have lodged the F.I.R. The applicants have given the statement that an amount of Rs.2,25,000/- is stolen from their house which was received from the non-applicant No.2 as consideration of their house. The learned A.P.P. has also pointed out that the agreement was executed and there was transaction. The applicants are denying the agreement and denying that they have received the amount which shows that they had intention to dupe the non-applicant No.2 after receiving the huge amount. Hence, prayed to reject the application.

5. Heard the learned Advocates for the parties and perused the record.

6. On plain reading of F.I.R. initially it appears that the applicants have a remedy for specific performance. However, the applicants are denying the agreement though admitted about receipt of amount while lodging F.I.R. for theft which shows their dishonest intention from inception. The applicants have denied the execution of agreement with intention to dupe the non-applicant No.2.

7. The learned Advocate for the applicants is harping on, availability of civil remedy. As the applicants are denying the receipt of any amount and agreement thereof and there is documentary evidence on record to show that the amount was paid by the non-applicant No.2 to the applicants and the applicants have also admitted in their statement before the police, clearly shows that their intention was to dupe the non-applicant No.2. As *prima facie* there is evidence of commission of crime this is not a fit case to quash the F.I.R. against the applicants. Hence, the application is rejected.

(MRS. VRUSHALI V. JOSHI, J.)