

**IN THE COURT OF
JUDICIAL MAGISTRATE FIRST CLASS
(IIIrd COURT), KALYAN**

(Presided Over by Nilesh Prabhakar Wasade)

MHTH100051512023

OMA No. 402/2023



Sonappa KRishna Nandrankar
Authorised representative Uma
Sonappa Nandrankar
Vs.
Runwal Residency

ORDER BELOW EXH. 01

01. This is the complaint filed against accused for the offence punishable U/Sections 3, 5, 10, 11 and 13 of the Maharashtra Ownership Flats (Regulation of Promotion Construction Sale, Management and Transfer) Act, 1963 and Section 383, 405, 419, 420, 463 r.w. Section 120-B r.w Section 34 of IPC.

02. Inquiry report as per Section 202 of Cr.P.C. is on record at Exh. 07.

03. Heard advocate for applicant. Further, perused the documents filed by the complainant.

04. According to complainant, accused are promoter and builder. The complainant had purchase flat for the consideration of Rs. 45,26,490/-. But, the accused refused to handover possession of the flat and demanded extra maintenance charges of Rs. 1,73,971/- for three years. It is not mentioned in the agreement and it is not as per the provision of MOFA or RERA Act. The accused did not form housing society. Further, accused did not transfer the title within three months from OC. OC was issued on 28/03/2023. Further, accused mortgage building. They are not given statement of money incurred formation of society. Further, accused are not given details of GST. Further, sold stilt parking.

05. After perusal of entire content incomplete, it nowhere seen intention to cheat to the complainant since, inception. Hence, Section 420 of IPC is not attracted. Further, no ingredients found as per Section 383 of IPC as there is no instant fear. Further, no ingredients found about criminal breach of trust. However, *prima facie* offence punishable under MOFA Act are attracted against accused. Hence, order.

ORDER

- 01.** Issue process against accused as per Section 204 of Cr.P.C. for the offence U/Sections 3, 5, 10, 11 and 13 of the Maharashtra Ownership Flats (Regulation of Promotion Construction Sale, Management and Transfer) Act, 1963 returnable on 11/10/2024.
- 02.** Case be re-register as Regular Criminal Case.

Kalyan
Date : 07/08/2024

(Nilesh Prabhakar Wasade)
Judicial Magistrate, First Class,
(3rd Court), Kalyan