

Cri. M.A. No.249/2021

Shri. Ninad Mukund Tiwrekar

Vs.

Shri. Mandar Dalvi and others

Order below Exh.1

This is a complaint filed under Section 379, 403, 406, 420, 422, 506 read with 34 of the Indian Penal Code. The complainant and his wife were joint owners of a 1 BHK flat situated at Mateshwari Hills Park, Karjat, District Raigad. It is alleged that in December 2018, accused No.1 and 2, who were known to the complainant and his wife, approached them to purchase the said flat. Accordingly, an agreement was executed between the parties on 25th January 2018. As per the terms of the agreement, particularly clause 4 on page 4, it was agreed that the transferor shall hand over quiet, vacant, and peaceful possession of the flat to the transferee immediately after the receipt of the entire full and final consideration amount. The complainant has produced a copy of the agreement and other supporting documents, including a photocopy of his Aadhar card, legal notice dated 30/01/2021, a legal notice dated 23/12/2020, and postal tracking receipts addressed to the Assistant Commissioner and police station.

02. It is the complainant's case that the accused persons, on the very same day of the execution of the

agreement, took unlawful possession of the said flat without informing him or giving him a reasonable opportunity to remove his personal belongings and furniture. It is further alleged that the accused assured him that he would be allowed to collect his belongings within a week, but till date, no such opportunity has been given, and the articles have not been returned. The complainant has listed various items such as a television, music system, wooden furniture, refrigerator, wardrobe, clothes and religious items which were allegedly left behind. On calling a police report under Section 202 of the CrPC, the police have submitted that the accused persons have denied finding any such belongings in the flat and claimed that they had taken possession of the flat through an agreement.

03. On going through the complaint, documents, and the report submitted under Section 202, it appears that there is prima facie material to show that the accused persons, despite not being entitled to possession on the date of agreement, took possession of the flat and did not return the personal belongings of the complainant. Such an act, if proved, may constitute dishonest misappropriation of property under Section 403 IPC. Further, taking possession without fulfilling contractual conditions and retaining belongings could constitute cheating under Section 420 IPC. If intention to dishonestly take and permanently deprive the complainant of his movables is proved, an offence under Section 378 IPC may also be made out. Additionally, failure to return items despite legal notices and alleged threats

may attract Section 506 IPC.

04. The overall conduct of the accused as alleged by the complainant and supported by documentary record shows sufficient ground to proceed with the matter. The complaint discloses a triable case, and therefore, process is hereby issued against accused No.1 and 2 for the offences punishable under Section 403, 420, 378, and 506 of the Indian Penal Code. Issue summons to the accused. The complainant shall take necessary steps within seven days from the date of this order.

Date: 10/06/2025

(Smt. A. S. Wadkar)
Judicial Magistrate, F.C., Karjat,
Dist-Raigad.