



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL)NO. 485/2023

1. Smt. Jayashree Deepak Yadav,
Aged about 48 years, Occ- Household,
R/o. Nari Road, Nagpur
Tahsil and District Nagpur
2. Dipak S/o Narmadaprasad Yavad,
Aged about 50 years, Occ- Business,
R/o. Nari Road, Nagpur
Tahsil and District Nagpur

... **APPLICANT**

...VERSUS...

1. State Of Maharashtra,
Through Jaripatka Police Station,
Ring Road, Jaripatka, Nagpur

...**NON-APPLICANTS**

Corrected as per
Court's Order
dated 06.05.2026

Mr. S. S. Joshi, Advocate for applicants
Mr. Virat Mishra, Advocate for non-applicant no.2.
Ms. Sneha Dhote, APP for non-applicant/State

**CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.**

**RESERVED ON : 18th NOVEMBER, 2025.
PRONOUNCED ON : 28th NOVEMBER, 2025.**



JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

Heard. Admit. Heard finally with the consent of learned Counsel for the parties.

2. The applicants have approached this Court by filing the present application under Section 482 of the Criminal Procedure Code, 1973, seeking quashing of the First Information Report dated 03.03.2018 registered as Crime No. 228/2018 with Police Station Jaripatka for the offences punishable under Section 420 read with Section 34 of Indian Penal Code, 1860.

3. Applicants have further prayed for quashing of the charge sheet/ final report bearing no. 62/2022 dated 21.03.2022 pending before the Judicial Magistrate First Class, Nagpur.

4. As per the averments in the application seeking quashment Mahadeo Kantode for the original owner of the



land comprising Khasara No. 2/2 of Mauza Nari, Nagpur, admeasuring 5.29 hectares. The family partition was affected between five sons of Mahadeo Kantode, pursuant to which each brother got 1/5th share i.e. 1.08 hectares from the above land. The application further states that two brothers namely Laxman Kantode and Krushna Kantode entered into agreement of sale of their respective shares with the present applicant no. 2 and on 08.01.2002 registered Power of Attorneys were executed by said Laxman and Krishna Kantode in favour of the applicant no. 2 granting him power to develop and deal with their shares in the said land. On 31.08.2007 Laxman Kantode, i.e. one of the brothers sold his share in the land to Bandhu Cooperative Housing Society Limited, Nagpur the sale was effected through his constituted attorney i.e. the applicant no. 2. On the same day Krushna Kantode the other brother sold his share to the applicant no. 2.

5. It is further stated in the application that Bandhu Cooperative Housing Society carved a layout in the land purchased by it i.e. from the share of Laxman Kantode and



transactions were effected to the members of the said society by executing agreements and possession receipts.

6. On 03.05.2008 a suit was filed by Krushna Kantode challenging the above mentioned sale deed, dated 31.08.2007 which was registered as Special Civil Suit No. 567/2008. In the above backdrop of these facts on 19.09.2013, Laxman Kantode who had already sold his share to Bandhu Cooperative Housing Society again sold the same land in favour of Sunil Khobragade who further transferred it to M/s. Mangalam Land Developers and Builders. Thus, in the year 2017 said Sunil Khobragade and M/s. Mangalam Land Developers and Builders took illegal and forcible possession of the land owned by Bandhu Society, on which a layout was carved thereon. On 12.06.2017, the non-applicant no. 2 submitted a complaint to the Crime Branch Nagpur alleging that M/s. Mangalam Land Developers and Builders is trying to disturb his possession. However, no action was taken against the above persons. The application further states that a First Information Report was registered by the non-applicant



no. 1 on the complaint by the non-applicant no. 2 against the present applicants, Sanjay Hulke, Secretary, Bandhu Society and two others, alleging that the accused persons named therein have committed an offence punishable under Section 420 of the Indian Penal Code, 1860, stating therein that a layout was carved on the plots not owned by them and thereafter, they were sold to the persons like non-applicant no. 2. It is this First Information Report, which is challenged in the present application on the various grounds as stated in the application.

7. We have heard Mr. S. S. Joshi, learned counsel for the applicants as also Ms. Sneha Dhote, learned APP for the non-applicant/State and Mr. Virat Mishra, learned Advocate for the non-applicant no. 2.

8. Learned counsel for the applicants submits that the applicants are no-way concerned with the dispute between the non-applicant no. 2 and the subsequent purchasers of the land. He further submits that he is lawful owner and in



possession 1/5th undivided share of the land bearing Khasara No. 2/2 and he purchased it from one Krushna Mahadeo Kantode by registered sale deed dated 31.08.2017 and his name has been duly mutated in the revenue record as owner and possessor. By taking us through the various documents i.e. sale deeds and power of attorneys in question, the learned counsel for the applicants submits that it is Laxman Kantode who has played a mischief and even though, he has sold his share to Bandhu Cooperative Housing Society by registered sale deed dated 31.08.2007, he malafidely sold the same portion of land to Sunil Khobragade on 19.09.2013. Thus, the learned counsel for the applicants submits that entire mischief has been played by Laxman Kantode who in spite of the fact that he has sold the same to Bandhu Cooperative Housing Society has again sold the same to Sunil Khobragade. It is thus the submission of the applicants that even if the averments in the First Information Report are taken at its face value, no offence as punishable under Section 420 of IPC is made out.

9. The learned APP while contradicting the learned



counsel for the applicants states that even if the matter has a civil flavour it does mean that no criminal offence can be made out. She submits that the rights of the parties even though can be crystallized in a civil suit, offence of cheating would require a full-fledged trial and therefore prays for dismissal of the application. Learned counsel for the non-applicant no. 2 also supports the learned APP and states that this is not a case where inherent power under Section 482 of the Cr.P.C. should be exercised.

10. In the backdrop of these facts we have gone through the record and appreciated the contentions raised by the rival parties the core question in the present matter would be whether the averment made in the First Information Report would constitute a criminal offence or is of purely civil wrong. In a recent judgment of the Hon'ble Apex Court in the Case of *A.M. Mohan Vs. State Represented By SHO And Another*, reported in (2024) 12 SCC 181, in para 18 the Hon'ble Apex Court has held as under:

“18. The law with regard to exercise of



jurisdiction under Section 482 of Cr. P. C. to quash complaints and criminal proceedings has been succinctly summarized by this Court in the case of Indian Oil Corporation V. NEPC India Limited and Others after considering the earlier precedents. It will be opposite to refer to the following observations of this Court in the said case, which reads thus:

“12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few – Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234], State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426], Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059], Central Bureau of Investigation v. Duncans Agro Industries Ltd. [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045], State of Bihar v. Rajendra Agrawalla [(1996) 8 SCC 164 : 1996 SCC (Cri) 628], Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401], Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615],



Hridaya Ranjan Prasad Verma v. State of Bihar [(2000) 4 SCC 168 : 2000 SCC (Cri) 786], M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283]. The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused. For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the Court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used



to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available, or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal



offence or not.

13. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time-consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged. In G. Sagar Suri v. State of U.P [(2000) 2 SCC 636 : 2000 SCC (Cri) 513] this Court observed: (SCC p. 643, para 8)

“8. It is to be seen if a matter, which is essentially of a civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the



basis of which the High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice.”

14. While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step that can be taken by the courts, to curb unnecessary prosecutions and harassment of innocent parties, is to exercise their power under Section 250 Cr.P.C. more frequently, where they discern malice or frivolousness or ulterior motives on the part of the complainant. Be that as it may.”

11. Furthermore, in the same judgment in para 20 this Court has held as under: This Court, in the case of *Prof. R.K. Vijayasarathy and Another v. Sudha Seetharam and Another* has culled out the ingredients to constitute the offence under



Sections 415 and 420 of IPC, as under:

“15. Section 415 of the Penal Code reads thus:

*“415. **Cheating.**—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to ‘cheat’.”*

16. The ingredients to constitute an offence of cheating are as follows:

1 6.1. There should be fraudulent or dishonest inducement of a person by deceiving him;

16.1.1. The person so induced should be intentionally induced to deliver any property to any person or to consent that any person shall retain any property, or

16.1.2. The person so induced should be intentionally induced to do or to omit to do anything which he would not do or omit if he were not so deceived; and

16.2. In cases covered by 16.1.2. above, the act or omission should be one which caused or is likely to



cause damage or harm to the person induced in body, mind, reputation or property.

17. A fraudulent or dishonest inducement is an essential ingredient of the offence. A person who dishonestly induces another person to deliver any property is liable for the offence of cheating.

*18. Section 420 of the Penal Code reads thus:
“420. Cheating and dishonestly inducing delivery of property.—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”*

19. The ingredients to constitute an offence under Section 420 are as follows:

19.1. A person must commit the offence of cheating under Section 415; and

19.2. The person cheated must be dishonestly induced to (a) deliver property to any person; or (b) make, alter, or destroy valuable security or anything signed or sealed and capable of being converted into valuable security.



20. Cheating is an essential ingredient for an act to constitute an offence under Section 420.”

12. Thus, as can be seen from the above judgment which takes into consideration the entire law on the point it can be seen that only offence which the First Information Report alleges is regarding sale of land in question and thereby committing the offence of cheating. The documents filed in support of the application shows that the applicants have no role to play in the matter since they purchased the share of Krushna Kantode who had already executed a registered sale deed in favour of the applicant no. 2. As far as share of Laxman is concerned, from the document it can be said that it is Laxman who has played mischief and sold the property twice once in favour of Bandhu Cooperative Society and again in favour of the Sunil Khobragade. The first sale deed in favour of Bandhu Cooperative Society is executed by Laxman through his Power of Attorney i.e. applicant no. 2 while the another sale deed of the same property is by Laxman himself. However, there is nothing on record to show that the Power of



Attorney dated 08.01.2002 executed by said Laxman has been cancelled so as to restrict applicant no. 2 from executing conveyance on behalf of his Principal on the date of execution of sale deed. Thus even if the averments in the application are presumed to be true, no offence is made out as against the present applicants more particularly the applicant no. 1 who has purchased the property from the applicant no. 2. The situation would therefore squarely fall within the well laid down parameters in the case of **State of Haryana & Others vs. Ch. Bhajan Lal & Others** reported in 1992 Supp. (1) SCC 335, which is reproduced below :-

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2).....

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4)



(5)

(6)

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

13. Accordingly, we pass the following order :-

ORDER

(i) Application is allowed.

(ii) First Information Report 228/2018 registered with the non-applicant no. 1 and charge sheet/ final report No. 62/2022 registered for offences punishable under Section 420 read with Section 34 of Indian Penal Code, 1860 is hereby quashed and set aside to the extent of present applicants.

(iii) Application is allowed and disposed of in above said terms.

(NANDESH S. DESHPANDE, J.) (URMILA JOSHI-PHALKE, J.)

Shubham