



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

CRIMINAL APPLICATION (APL) NO.1275 OF 2021

APPLICANT : Manohar Akaram Nikude,
Age - 62 years, Occu - Agriculturist
R/o Ashta (Neri),
Tah and Dist. Wardha.

V E R S U S

RESPONDENTS :

1. State of Maharashtra
Through Police Station Sewagram,
Dist. Wardha.
2. Babarao Rangrao Shende,
Aged 50 years,
R/o Ganesh Nagar, Borgaon (Meghe),
Wardha.

Shri M. N. Ali, Advocate for applicant.
Shri A. M. Kadukar, Additional Public Prosecutor for non-applicant No.1.
Shri J. R. Kidilay, Advocate for non-applicant No.2.

CORAM: URMILA JOSHI-PHALKE, J.
DATED : 17/02/2026.

ORAL JUDGMENT :

1. Heard. **Admit.** Heard finally with the consent of learned counsel appearing for the parties.
2. By this application, the applicant is seeking quashing of the FIR in connection with Crime No.338/2020 and the consequent proceeding arising out of same bearing Charge Sheet No.1/2021 registered at Sewagram Police Station, Wardha.
3. A crime is registered on the basis of report lodged by the non-applicant No.2 who is residing at Borgaon (Meghe),

Wardha having his house property in the vicinity. It is alleged that the applicant has expressed his desire to sell his agricultural field Survey Nos.149/A and 149/B to the Non-applicant No.2. On 30/04/2014, agreements of sell of above agricultural lands were executed in favour of non-applicant No.2 and the non-applicant No.2 paid earnest amount of Rs.5,00,000/- to the applicant. It was agreed between the applicant and non-applicant No.2 that the sale deed shall be executed on or before 30/04/2014 after depositing the remaining earnest money of Rs.1,00,000/-. It is alleged that the applicant failed to execute the sale deed and therefore, non-applicant No.2 issued notice on 27/06/2015. In spite of notice, the applicant did not execute the sale deed. Therefore, the non-applicant No.2 filed civil suit against the applicant for specific performance of contract. The said suit was decreed on 10/04/2017. Thereafter, non-applicant No.2 filed execution proceeding. It is further submitted that on 29/06/2018, the sale deeds of above fields were executed in favour of the Non-applicant No.2 through the Court. After execution of sale deed, the non-applicant No.2 applied for mutation of his name, at that time, the applicant has raised objection. As per the order of revenue authority, the name of non-applicant No.2 is mutated. When the non-applicant No.2 had been to the field to take the possession,

applicant and his relatives obstructed non-applicant No.2. It further revealed that the present applicant has already sold the Field Survey No.149/A to Vilas Bhalkar on 14/02/2018 vide registered sale deed. Thus, the said fact was suppressed by the applicant and another sale deed was executed. Thus, there was intention since inception and on the basis of the same, crime came to be registered. It is further apparent that FIR came to be registered on the basis of direction given by the Judicial Magistrate First Class, Wardha to register the FIR.

4. Heard learned counsel for the applicant who submitted that it is purely a civil dispute. The suit for specific performance was already filed by the non-applicant No.2 which was decreed in his favour. In fact, the applicant has denied the agreement of sale in favour of the present non-applicant No.2. It was a forged signature of the applicant by the non-applicant No.2. He also invited my attention towards the finding of the learned Civil Judge, Senior Division, Wardha while disposing of the civil suit. Thus, he submitted that by no stretch of imagination, it can be said that the offence under Section 420 of the IPC is made out against the present applicant and therefore, the application deserves to be allowed.

5. Per contra, learned APP and the learned counsel for the complainant strongly opposed the said contention and submitted that the intention since inception is apparent as the applicant was having knowledge that he has already sold out one of the Survey No.149/1 to Vilas Bhalkar and then also, he executed the sale deed in favour of the present non-applicant No.2 accepted the sale consideration amount and thereafter, it was revealed to the non-applicant No.2 that the suit property is already sold out. Thus, the intention since inception is apparent and therefore, at this stage, prima facie case is made out against to the present applicant and therefore, application deserves to be rejected.

6. On hearing both sides and on perusal of the entire investigation papers, it reveals that the applicant and non-applicant No.2 entered into an agreement to sell regarding the agriculture property Survey Nos.149/A and 149/B. Accordingly, the agreement of sale was executed and earnest money was accepted by the present applicant, but he has not executed sale deed and therefore, non-applicant No.2 has preferred the Special Civil Suit. The said Special Civil Suit No.33/2016 was decided in favour of the non-applicant No.2. Thereafter, the applicant has preferred the Second Appeal before this Court also. Against the same, First Appeal was preferred by the applicant. The same was

remanded back to the Trial Court. Being aggrieved with the same, the non-applicant No.2 preferred the Second Appeal and in the said Second Appeal, the findings of the Trial Court are confirmed by this Court. On perusal of the statements of the witnesses, it reveals that despite the knowledge, the applicant entered into an agreement though property was already sold to third person. Thus, the intention since inception, which is the requirement to attract Section 420 of the IPC appears to be fulfilled. The offence punishable under Section 420 of the IPC and to constitute the said offence, there must be deception i.e. accused must have deceived someone. As such, the accused must have induced a person deceived 1) to deliver any property to any person, 2) 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 or 3) that the accused must have done so dishonestly. The offence punishable under Section 123 of the IPC to constitute criminal conspiracy, there must be an agreement between two or more persons. An agreement should be to do so because to do some illegal act or some act, which is not illegal by illegal means.

7. Thus, to attract the offence punishable under Section 420 of the IPC, there must be deception and the accused must

have deceived by someone which is apparent in the present case. From the facts itself, non-disclosure by the applicant regarding earlier sale deed to the present non-applicant No.2 accepting earnest amount from the non-applicant No.2 and not executing the sale deed initially in his favour after the order of the Court, it was executed in his favour. Thereafter, obstructed for the mutation of the name of the present non-applicant No.2. Thus, all this conduct is sufficient to infer that there was deception since inception regarding the deception and therefore, prime facie case is made out against the applicant.

8. After applying the parameters which are laid down by the Hon'ble Apex Court in the case of ***State of Haryana & Ors. Vs. Bhajan Lal & Ors., 1992 Supp.(1) SCC 335***, wherein following principles / guidelines are laid down by the Hon'ble Apex Court for consideration of the application under Section 482 of Cr.PC.

“(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) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(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) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(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.”

9. Prima facie case is made out against the present applicant and therefore, application deserves to be rejected.

Accordingly, I proceed to pass following order :-

ORDER

10. The application is rejected.

[JUDGE]