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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

913 CRIMINAL REVISION APPLICATION NO. 250 OF 2019

UTTAM S/O. DHONDIBA TELANG AND ANR
VERSUS
THE STATE OF MAHARASHTRA

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Mr V. A. Chavan, Advocate h/f Mr V. P. Golewar, Advocate for
Applicants

Mr M. A. Aher, APP for Respondent/State

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 01st OCTOBER, 2026

P. C. :

1. Heard Mr Chavan, learned Advocate h/f Mr Golewar, learned Advocate for the applicants and learned APP for the respondent/State.

2. The applicants are challenging the impugned judgment and order dated 23/08/2019, passed by the learned Additional Sessions Judge, Nanded in Criminal Appeal No.27/2006, whereby learned Additional Sessions Judge dismissed the said appeal challenging judgment and order of conviction dated 16/10/2006, passed by the learned Judicial Magistrate First Class (JMFC), Nanded in R.C.C. No.509/1999. Vide the said judgment and order dated 16/10/2006, the

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applicants came to be convicted for the offence punishable under Sections 420 read with Section 34 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.1000/-, in default to pay fine, to suffer rigorous imprisonment for ten days. They were further convicted for the offence punishable under Section 468 read with Section 34 of the IPC and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.1000/-, in default to pay fine, to suffer rigorous imprisonment for ten days. Both the sentences were directed to be run concurrently. Applicant No.1/Uttam Dhondiba Telang is accused No.2 whereas applicant No.2/Nivrutti Khandu Shrirame is accused No.4.

3. The prosecution case is as under :-

One Kamaji Shrirame, father of complainant was having house property at Hudco, Nanded and was serving as a Conductor in S.T. Department. He was suffering from cancer since 1994, due to which he died on 27/09/1997. After his death, the informant and his mother had been to their own village for cultivation of their agricultural land. Before proceeding to their village, they handed over key of house property at Hudco to appellant No.1/Uttam Dhondiba

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Telang as he was residing adjacent to their house. Said Uttam was son-in-law of accused No.1/Shankar Bhimrao Gaikwad. It is also came to be alleged by complainant that they sold the said house property situated at Hudco to one Virbhadra Menkudale on 09/10/1998. Therefore, complainant had been to house of present applicant No.1/Uttam and demanded the key of the house. However, appellant No.1/Uttam informed them that he will return the key on 30/10/1998. When again complainant had been to house of Uttam and again demanded the key, Uttam avoided and told him that key is with accused No.1 i.e. his father-in-law/Shankar Bhimrao Gaikwad. Complainant went to accused No.1/Shankar and demanded the key. At that time, said Shankar alleged to have shown one bond paper and informed him that father of complainant namely Kamaji had already sold the said house property to him. Upon learning that the accused persons in collusion with each other had prepared a false deed to grab property, the complainant filed a written complaint before the Police Station, Nanded (Rural) against the six accused persons for the offence punishable under Sections 420, 468, 471 read with Section 34 of the Indian Penal Code. Accused No.1/Shankar who is father-in-law of accused No.2/Uttam, alleged to have purchased property from Kamaji. Accused No.2/Uttam, son-in-law of accused No.1. Accused

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No.3/Shivaji Hanmanta Shrirame is also alleged to have abetted the crime. Accused No.4/Nivrutti Khandu Shrirame who is appellant No.2 as well as signatory on the sale deed as witness. Accused Nos.5/Kachraji Bhimaji Kokre and accused No.6/Bhanudas Maroti Gaikwad. After the investigation is complete, charge-sheet came to be filed against the accused persons and they were came to be tried. During the course of evidence, the prosecution has examined as many as nine witnesses. After recording the evidence, the learned JMFC acquitted accused Nos.3, 5 and 6. However, accused No.1/Shankar Bhimrao Gaikwad, accused No.2/Uttam Dhondiba Telang and accused No.4/Nivrutti Khandu Shrirame came to be convicted and sentenced as aforesaid.

4. Being aggrieved by the aforesaid judgment and order of conviction, accused Nos.1, 2 and 4 approached before the learned Additional Sessions Judge by filing Criminal Appeal No.27/2006. During the pendency of said criminal appeal, accused No.1/Shankar was expired. Thereafter, learned Additional Sessions Judge dismissed the said appeal of accused Nos.2 and 4, thereby maintaining the conviction imposed upon them by the learned JMFC.

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5. Being aggrieved by the said judgment and order of dismissal of criminal appeal, Accused Nos.2 and 4 approached this Court by filing instant revision application challenging the said impugned judgment and order.

6. Mr Chavan, learned Advocate holding for Advocate Mr Golewar for the applicants submits that both the learned Courts below have not appreciated the evidence on record in its proper perspective and only on the basis of surmises and conjectures, passed the impugned judgment and orders of conviction and sentence. He further submits that learned Trial Court as well as the learned Appellate Court have not considered the fact that complainant/Shivaji had compromised the civil dispute between him and accused No.1/Shankar, in view of which, the grievance against applicants does not survive. He then submits that the prosecution has failed to prove beyond reasonable doubt that the accused have committed aforesaid offence of cheating and preparing the false documents. He further submits that the applicants are not beneficiaries of house property and the main accused in whose favour the house property was sold is already expired. The evidence brought before the Court by the prosecution as regards cheating and preparing false documents is also

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not sufficient to establish guilt of the accused. Therefore, he submits that the impugned judgments and orders are perverse and not in accordance with law and thus, prays for quashing and setting aside the same.

7. Per contra, learned APP opposes the instant criminal revision application. He submits that the prosecution has established the guilt of the accused persons beyond all reasonable doubt. He then submits that there are as many as nine witnesses who came to be examined by the prosecution to prove the guilt of the accused persons. He submits that PW-2/Anand Ramchandra Jadhav, who came to be examined at Exh.50 who is a neighbour of complainant and PW-3/Laxman Monaji Mahabale is a bond writer, whose evidence is at Exh.55. The said Laxman Mahabale as per the prosecution supported the complainant by stating that the accused persons had been to him on given date and time, and as per the their instructions, he had written the said bond paper. PW-5/Deelip Mahabale, who is examined at Exh.73 had corroborated the testimony of PW-3/Laxman Mahabale. The evidence as regards PW-7/Purushottam Rajaram Dhotre, who is a handwriting expert, is at Exh.95 to prove signature of the appellant No.1 on the purported false documents. With the said quality of

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evidence, according to Mr Aher learned APP, the prosecution has established the case, so as to convict the applicants. Thus, according to him, learned Trial Court as well as learned Appellate Court have rightly convicted the applicants and there is no illegality or irregularity in the said judgments and order and the said judgment and orders required to be maintained. He, therefore, prays for dismissing the instant revision application.

8. After hearing the learned Advocate for the respective sides, and going through the evidence brought on record, it is found that there is concurrent finding against the applicants. The prosecution has examined nine witnesses, whose evidence found to be trustworthy by the learned Trial Court. No legal ground has been raised to disbelieve the testimonies of the said witnesses. On the contrary, all the witnesses have supported the prosecution to establish the guilt of accused persons. More particularly, evidence of PW-7, who is handwriting expert, who proved the signature not only of Kamaji, father of complainant, but also signature of accused Uttam on the said documents as witness.

9. The scope of this Court's power under Section 397 of the Code of Criminal Procedure is limited. In numerous judgments, the

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Hon'ble Apex Court has held that where there are concurrent findings against the applicant, the revisional Court must exercise its jurisdiction sparingly, and only to prevent a miscarriage of justice. In the instant matter, I do not find any perversity in the judgments of the Courts below. Hence, the instant revision application is dismissed. The conviction imposed upon the applicants is hereby maintained. However, instead of sending them to jail to serve the full term of imprisonment imposed by the Trial Court, their sentence is reduced to the period already undergone in prison.

[SUSHIL M. GHODESWAR, J.]

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