

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 932 of 2015

1. Mohd. Abdul Wahid S/o Late Md. Abdul Samad Aged About 60 Years R/o Sadar Ward, Main Road, Jagdalpur, Civil & Revenue District - Bastar (Chhattisgarh).
2. Mohd. Abdul Sajid @ Baba, S/o Late Md. Abdul Samad Aged About 50 Years R/o Sadar Ward, Main Road, Jagdalpur, Civil & Revenue District - Bastar (Chhattisgarh). --- **Petitioners**

Versus

1. State of Chhattisgarh Through : District Magistrate Kondagaon.
2. Noorjahan Begum W/o Late Makbool Ahmad Aged About 60 Years R/o Ishwarpura Ward, Dr. Pathak Gali, Near Chabutara, Katni, Tahsil & District Katni (M. P.)
3. Aftab Ahmad S/o Late Makbool Ahmad Aged About 43 Years R/o Ishwarpura Ward, Dr. Pathak Gali, Near Chabutara, Katni, Tahsil & District Katni (M. P.) --- **Respondent**

And

MCRCA No. 940 Of 2015

1. Mohd. Abdul Wahid S/o Late Md. Abdul Samad Aged About 60 Years R/o Sadar Ward, Main Road, Jagdalpur, Civil And Rev. Distt. Bastar Chhattisgarh.
2. Mohd. Abdul Shahid S/o Late Md. Abdul Samad Aged About 57 Years R/o Sadar Ward, Main Road, Jagdalpur, Civil And Rev. Distt. Bastar Chhattisgarh.
3. Mohd. Abdul Sajid @ Baba S/o Late Md. Abdul Samad Aged About 50 Years R/o Sadar Ward, Main Road, Jagdalpur, Civil And Rev. Distt. Bastar Chhattisgarh.
4. Mohd. Abdul Shoib S/o Late Abdul Hamid Aged About 25 Years R/o Sadar Ward, Main Road, Jagdalpur, Civil And Rev. Distt. Bastar Chhattisgarh. --- **Petitioners**

Vs

1. State of Chhattisgarh & Anr. Through Distt. Magistrate Kondagaon, Chhattisgarh.
2. Aftab Ahmad S/o Late Makbool Ahmad Aged About 43 Years R/o Ishwarpura Ward, Dr. Pathak Gali, Near Chabutara, Katni, Tahsil And Distt. Katni (M.P.). --- **Respondents**

And

MCRCA No. 941 Of 2015

1. Mohd. Abdul Wahid S/o Late Md. Abdul Samad Aged About 60 Years R/o Sadar Ward, Main Road, Jagdalpur, Civil & Rev. Distt. Bastar Chhattisgarh

2. Mohd. Abdul Shahid S/o Late Md. Abdul Samad Aged About 57 Years R/o Sadar Ward, Main Road, Jagdalpur, Civil & Rev. Distt. Bastar- Chhattisgarh
 3. Mohd. Abdul Sajid @ Baba S/o Late Md. Abdul Samad Aged About 50 Years R/o Sadar Ward, Main Road, Jagdalpur, Civil & Rev. Distt. Bastar- Chhattisgarh
 4. Mohd. Abdul Shoib S/o Late Abdul Hamid Aged About 25 Years R/o Sadar Ward, Main Road, Jagdalpur, Civil & Rev. Distt. Bastar- Chhattisgarh.
- Petitioners**

Vs

1. State of Chhattisgarh through the Distt. Magistrate Kondagaon Chhattisgarh
 2. Noorjahan Begum W/o Late Makbool Ahmad Aged About 60 Years R/o Ishwarpura Ward, Dr. Pathak Gali, Near Chabutara, Katni, Tahsil & Distt. Katni M.P.
- Respondents**

For the applicants	:	Mr. Keshav Devangan, Advocate.
For the State	:	Mr. U.K.S. Chandel, Panel Lawyer.

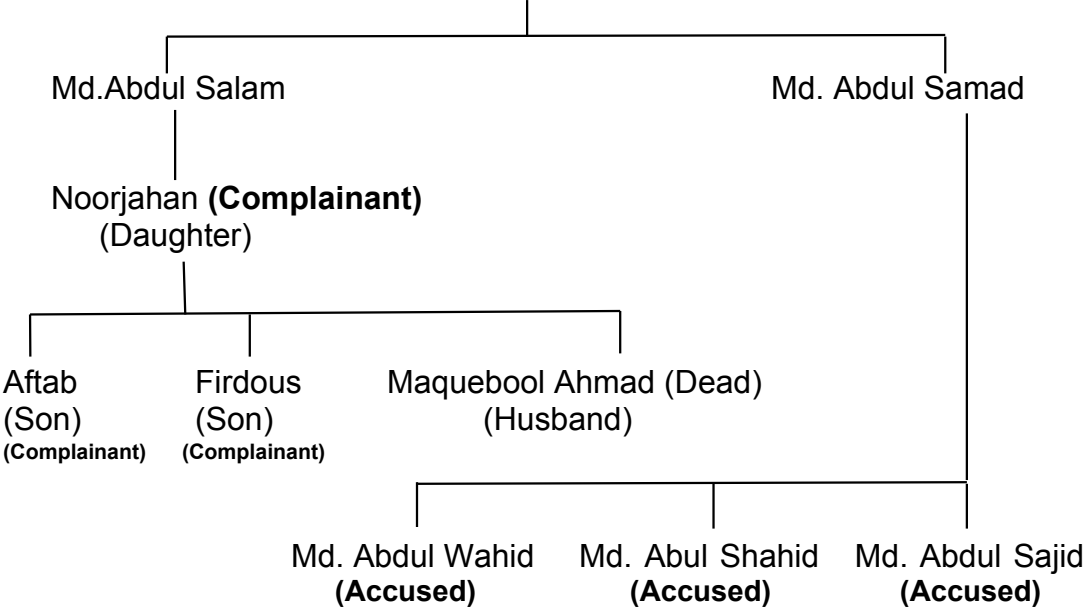
Hon'ble Shri Justice Goutam Bhaduri

Order on Board

17.12.2015

1. Apprehending arrest in connection with Criminal Case Nos. 101, 102, 103 registered by the Court of Additional Sessions Judge Kondagaon, wherein summons have been issued, the applicants have filed these application under Section 438 Cr.P.C. No representation is made on behalf of the complainants despite service of notice.
2. MCRCA No.932/2015 is relating to Criminal Case No.103/2015 for the offence punishable under sections 420, 467, 471, 120(B) & 506 (Part II) of IPC. MCRCA No.940/2015 is relating to Criminal Case No.101/2015 for the offences punishable u/ss 294, 420 read with section 34, 506(part-II) IPC and MCRCA 941/2015 is relating to Criminal Case No.102/2015 for the offence punishable under Sections 420, 506-II of IPC. Since the applicants are involved in similar nature of offences in all the three cases, they are being decided together by this common order.

3. Complaints have been filed by non-applicants Noorjahan and her son Aftab Ahmad that on the basis of false documents, the applicants have mutated their names in the revenue records without following due procedure despite the fact that the lands were sold to husband of Noorjahan by the father of applicants, thereby the offence is committed. The complainant is descendant of Abdul Salam where the applicants are descendants of Abdul Samad. In order to ascertain detailed relationship between the complainant and applicants, the genealogical tree is furnished hereinbelow :



It was the case of complainant that Abdul Salam and Abdul Samad both were brothers. Abdul Salam had a daughter namely Noorjahan (complainant) whose husband was Maquebook Ahmad. Maquebool Ahmad purchased the lands from Abdul Samad in the year 1963. Noorjahan had two sons namely Aftab and Firdous whereas Abdul Samad had three sons namely Md. Abdul Wahid, Md. Abdul Shahid and Md. Abdul Sajid, applicants herein. After death of Maqbook Ahmad, the entire property devolved on complainants.

4. Further case of the complainants is that the lands were purchased by Maqbool Ahmad way back in the year 1963 from the father of applicants and as such Maqbool became the exclusive owner. After death of Maqbool the property devolved on complainant wife and sons i.e., Noorjahan, Aftab and Firdous, however, the sons of Abdul

Samad i.e., the applicants committed forgery and got their names mutated in the revenue records without following procedure prescribed in law.

5. Learned counsel for the applicants submits that the complaint cases have been registered wherein the entire allegations are between the family members and the rights of the parties are to be decided by a competent civil Court by deciding their rights and the parties are governed by Mohmadan Law. It is further submitted that even if the mutations are being made, it may not deprive the rightful ownership and the mutation of names can be corrected at any time, however, it will not override the personal law. Therefore, considering the nature of dispute, the applicants may be extended the benefit of provisions of Section 438 Cr.P.C.
6. Per contra, learned State Counsel opposes the prayer for grant of anticipatory bail. No representation is made on behalf of the complainants despite service of notice
7. Perused the case diary and other documents.
8. A perusal of the case diary would show that the nature of the complaints made are of a dispute over the share in property between the parties and the said dispute has arisen out of mutation proceeding. Thus, taking into allegations of the complaints, prima facie, it appears that the dispute is purely of civil nature where the rights of parties over the property in question are involved, which can be adjudicated by a competent civil court. However, no finding is given on this.
9. Thus, taking into totality of the facts and circumstances of the case and the nature of allegations, I am inclined to enlarge the applicants on anticipatory bail.
10. Accordingly, the applications are allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid criminal cases, they shall be released on bail on each of them executing a personal bond in sum of Rs.25,000/- with one surety

each in the like sum to the satisfaction of the trial Court. The applicants shall appear before the concerned trial Court on **22nd January, 2016**. The applicants shall also abide by the following conditions :-

- (i) that they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any police officer;
- (ii) that they shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iii) that they shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**