

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

CRIMINAL APPLICATION NO. 29 OF 2015

Manmath Baburao Dhengle

..APPLICANT

VERSUS

Uttam Atmaram Dhengle and Others

..RESPONDENTS

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Mr. G.S. Pahilwan, Advocate holding for Mr. M.S. Kokate and R.V. Gore, Advocate for applicant.

Mr. V.S. Undre, Advocate for Respondent Nos.1 to 6.

Mr. N.T. Bhagat, A.P.P. for Respondent No.7.

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CORAM : M.T. JOSHI, J.

DATED : 24th NOVEMBER, 2015

ORAL ORDER :

Heard both sides.

2. The respondents/original accused were acquitted of offences punishable under Section 465, 468 and 471 r/w 34 of the Indian Penal Code by the learned Judicial Magistrate First Class, Washi in Regular Criminal Case No.11/2009 vide judgment and order dated 06th November, 2014. The present applicant/original

complainant wants to prefer an appeal against the said order and therefore, the present application for leave to file appeal.

3. The applicant's case is that he himself along with his brother Madhukar are the real brothers of deceased Dagadu. Upon death of Dagadu, being legal representative, the agricultural property in question was inherited by them. The present Respondent No.1/Original Accused No.1 is posing himself as an adopted son of deceased Dagadu and he has transferred the property by way of sale deed in favour of the Respondent No.2. In the circumstances, complaint came to be filed.

4. It has become an admitted fact that the Respondent No.1 is claiming himself as adopted son of deceased Dagadu inter alia on the strength of registered adoption deed. A civil dispute regarding the title or succession over the field property upon death of Dagadu is already pending between the present applicant/complainant and Respondent No.1. In the said suit also admittedly, the Respondent No.1 has claimed to be the son of the deceased Dagadu on the basis of registered adoption deed.

5. The learned Counsel for the applicant submits that even the registered adoption deed is a forged document. However, the present complaint was only regarding the sale deed executed on the strength of the said registered document. The issue as to whether the said sale deed is executed falsely impersonating the Respondent No.1 as the adopted son would naturally depend on the issue as to whether the adoption deed as well as the adoption is proved before the Civil Court. The reasons forwarded by the learned Judicial Magistrate First Class cannot be faulted with. The learned Judicial Magistrate First Class has taken a reasonable and probable view on the basis of material before him.

6. In the circumstances, even if leave to file appeal is granted, no substantive result would come out. Therefore the application for leave to file appeal is hereby dismissed.

(M.T. JOSHI, J.)