

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

Criminal Application No.274 of 2015

* Kasim S/o Maulana Shaikh,
Age 48 years,
Occupation : Service,
R/o Yeshwant Nagar, Parbhani,
District Parbhani. **.. Applicant.**

Versus

- 1) The State of Maharashtra
Through New Mondha
Police Station, Parbhani,
District Parbhani.
- 2) Swati W/o Gajanan Solanke,
Age 33 years,
Occupation : Household,
R/o Flat No.H-404,
The Metropolitan Apartment,
Link Road, Shridhar Nagar,
Opp. Darshan Hall,
Chinchwad, Pune,
District Pune. **.. Respondents.**

Shri. Shashibhusan P. Deshmukh, Advocate, for applicant.

Shri. B.L Dhas, Additional Public Prosecutor, for
respondent No.1.

Shri. Vishal A. Bagdiya, Advocate, for respondent No.2.

**CORAM: T.V. NALAWADE
Smt. I.K. JAIN, JJ.**

DATE : 15th APRIL 2015

JUDGMENT:

1) Rule, rule made returnable forthwith. Heard both the sides by consent for final disposal.

2) The proceeding is filed for quashing and setting aside of the First Information Report of CR No.307/2014 registered in New Mondha Police Station, Parbhani for offences punishable under sections 120-B, 406, 418, 419, 420, 467, 468, 471, 34 etc of the Indian Penal Code. Both the sides are heard. This Court has perused the papers supplied by both sides.

3) Crime is registered on the basis of report given by respondent No.2 - Smt. Swati Solanke. Applicant was working as Sub Registrar in the office of the Sub Registrar Parbhani. The complainant has made allegations that the main accused Shivaji Aher, her uncle had deceived her by creating some false record on which her signatures are there. It is her case that, by deceiving her said uncle obtained her signature on General Power of Attorney and he misused that document. She has

contended that on 1-6-2012 she was taken to the office of the Sub Registrar and there her signatures were obtained. It is her case that she had no intention to give her rights in her property to Shivaji Aher but he used such document and got transferred her property in his favour. The property is transferred in the names of sons of Shivaji Aher by registered sale deeds dated 21-6-2012.

4) It is contended that on 1-6-2012 complaintant was present in the office of the Sub Registrar and she had signed one document like Genaral Power of Attorney and this dcument was executed in favour of Shivaji Bajirao Aher. It appears that on the basis of this document, General Power of Attorney, which was executed in favour of Shivaji Aher, he got registered two sale deeds in resepct of the lands Gat Nos.44 and 39 in favour of his sons like Rakshit Aher and Ajinkya Aher which were standing in the name of the complainant. Land Gat No.44 was already mortgaged with the bank.

5) The present applicant was working as Sub Registrar and as per the procedure laid down under the

Registration Act it was necessary for the applicant to register the aforesaid documents. It is the case of the complainant that Shivaji Aher is an Advocate and the present applicant knew him and the applicant had joined hands with Shivaji Aher and due to that reason the documents of sale deeds were registered.

6) It is the case of the applicant that by following procedure laid down in the Registration Act, he registered the document. In view of these circumstances, allowing the proceeding to go on or prosecution against the present applicant will amount to abuse of process of law. This Court holds that the FIR deserves to be quashed and set aside.

7) In the result, the application is allowed. The FIR of Crime No.307/2014 registered at New Mondha Police Station Parbhani is hereby quashed and set aside as against the present applicant. Rule is made absolute in aforesaid terms.

Sd/-
(Smt. I.K. JAIN, J.)
rsl

Sd/-
(T.V. NALAWADE, J.)