

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.819 OF 2015

Shantilal s/o Jaywantrao Nikam

...APPLICANT

VERSUS

1) The State of Maharashtra,

2) Sanjay s/o Ramlal Badoge

...RESPONDENTS

...

Mr. G.A. Kulkarni Advocate for Applicant.

Mr. S.D. Ghayal, A.P.P. for Respondent No.1.

Mr. K.F. Shingare Advocate for Respondent No.2.

...

**CORAM: A.V. NIRGUDE AND
V.K. JADHAV, JJ.**

DATE : 26TH OCTOBER, 2015

ORDER :

1. Applicant is admittedly owner of plot No.26 in Gut No.62 of village Padhegaon, Tq-Aurangabad and Dist-Aurangabad. Gut No.62 was subjected to plotting and various plots were sold to various persons. Plot No.2 abuts Plot No.26 on Southern side. They share a boundary. Plot No.2 is

admittedly owned by Respondent No.2/ complainant.

2. It appears that prior to filing of the complaint, a dispute had arisen between the Applicant and Respondent No.2 regarding the boundary between their plots. Respondent No.2 erected a boundary wall between these two plots. The Applicant came and demolished the same alleging that it was an encroachment. Respondent No.2 made complaint that by demolishing the wall he had constructed, the Applicant had committed offence under Section 447, 427, 504, 506 of the Indian Penal Code.

3. The Applicant comes before us for getting this complaint quashed. Technically speaking, offence under Section 447 of the Indian Penal Code could have been alleged against the Applicant in the fact situation. But we are inclined to quash the proceeding because the dispute essentially is of civil nature. The parties, instead of taking

their dispute to criminal Court, ought to have jointly got the plots measured for fixing the boundary. Once the boundary is fixed, the dispute would come to an end. Instead of solving the problem amicably, the parties are inclined to aggravate it.

4. For the reasons afore-stated, the Criminal Application stands allowed in terms of prayer clause (C).

[V.K. JADHAV, J.]

asb/OCT15

[A.V. NIRGUDE, J.]