

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

CRIMINAL WRIT PETITION NO.493 OF 2015.

Dr. Nainesh Prabhakar Dahale ... PETITIONER

VERSUS

The State of Maharashtra & ors. ... RESPONDENTS

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Shri M.M. Bhokariker, Advocate for petitioner
Shri V.D. Godbharle, A.P.P. for respondent No.1/State
Shri A.S. Bajaj, Advocate for respondents No.2 and 3
Shri A.M. Karad, Advocate for respondent No.4

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CORAM: S.S. SHINDE AND
 A.I.S. CHEEMA, JJ.

DATED: 7th August, 2015.

ORAL ORDER :

1. Heard. The counsel appearing for the petitioner invited our attention to the various documents and submits that, the petitioner is joint owner of the plot. He further submits that, the concerned officers to whom complaint is filed by the petitioner, has not properly caused the investigation. It is submitted that, so as to deprive the petitioner from enjoying the said property, false case is filed against the petitioner. In fact,

when the petitioner himself claims joint ownership, there was no question of removing the file from the office of the CIDCO. Therefore, according to the learned counsel appearing for the petitioner, the pending proceedings before the Judicial Magistrate, First Class deserves to be quashed.

2. On the other hand, learned counsel appearing for the respondent No.2 and 3 and learned A.P.P. jointly submit that it is only upon appreciation of the material collected by the prosecution the concerned Court can reach to the definite conclusion. It is further submitted that, while exercising writ jurisdiction by this Court, it is not desirable to enter into the disputed questions of facts. Therefore, the petition may be rejected.

3. We have given careful consideration to the rival contentions. With the able assistance of the counsel appearing for the parties, we have perused the allegations in the F.I.R., charge sheet and accompaniments to the charge sheet. Looking to the evidence available and material collected by the investigating agency, prima facie, it appears that the allegations need to be tested in the light of evidence collected by the prosecution agency before the trial Court during trial. It is not

desirable for this Court to enter into the disputed questions of facts and appreciation of the evidence collected by the prosecution agency and then reach to a particular conclusion. Since the charge sheet is filed and the prosecution agency has collected enough material for trial, we are not inclined to entertain this petition. hence, the petition sans merits, stands rejected.

4. At this stage, counsel appearing for the petitioner submits that, the application of the petitioner for further investigation is pending before the Judicial Magistrate, First Class, Aurangabad. We do not wish to give any specific directions. However, petitioner would be at liberty to move before the same Court for expeditious hearing of the said application.

(A.I.S. CHEEMA, J.)

(S.S. SHINDE, J.)