

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

CRIMINAL WRIT PETITION NO. 664 OF 2015

Balwant Mohan Badve

.... PETITIONER

V E R S U S

The State of Maharashtra & Ors.

.... RESPONDENTS

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Mr. P.V.Barde a/w Smt.D.D.Suryawanshi,
Advocate for Petitioner.

Mr. A.S.Shinde, A.P.P. for R.No.1 – State.

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CORAM : V.M.DESHPANDE, J.

DATE : 5th AUGUST, 2015

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PER COURT :

1. By the present Writ Petition, petitioner is challenging the Judgment and Order dated 26/03/2015 passed by the learned Additional Sessions Judge, Ahmednagar in Criminal Revision Petition No. 23/2014, by which learned revisional Court dismissed the Revision filed on behalf of present petitioner.

2. Heard Mr. P.V.Barde with Smt.D.D.Suryawanshi, learned counsel for the petitioner and Mr. A.S.Shinde, learned A.P.P. for respondent No. 1 – State.

3. A private proceedings are filed by present petitioner against respondent Nos. 2 and 3. By the said proceedings, it is complained that respondent Nos. 2 and 3 stolen agricultural equipments and R.C. Book of tractor. Said proceedings came to be registered as R.T.C. No. 78/2013.

In the said proceedings, application [Exh.5] was filed, by which the complainant/petitioner sought interim custody of the property involved in the theft. Learned Magistrate on 10/12/2013 rejected the said application.

4. According to the petitioner, respondent No. 2 Anna was his servant and was working as driver of the tractor to do the agricultural operation. He was residing in field G.No. 594 and agricultural equipments were kept in the room of that field. As per the case of the petitioner, respondent No. 2 Anna was removed from service before one year, however he failed to vacate the room. Petitioner, who resides at Ahmednagar, when visited the field, he found that agricultural equipments viz. Plough, sowing machine, levelling plank, razor are missing and respondent No. 2 Anna could not give satisfactory account of missing of these equipments and, therefore, private complaint was filed for the offences punishable u/s 380,411 read with 34 of the Indian Penal Code.

5. After hearing learned counsel for the petitioner and after having gone through the order impugned, it is clear that the equipments in question for which interim custody is sought for, were seized from the custody of respondent No. 2 –

Anna. Revisional Court, in my view, reached to the correct conclusion that till the allegations made by the petitioner that Anna has stolen away the property, merely by filing the complaint, ownership of complainant can not said to be established over the agricultural implements. Learned Judge of the Court below has correctly assessed the position that possession of the immovable property is sufficient to show the ownership of the implements. Petitioner/complainant was unable to point out anything before any of the Court below or before this Court also to show his ownership over the agricultural implements. In that view of the matter, I see no reason to disturb well reasoned Judgment and order passed by the learned revisional Court.

6. Hence, present Criminal Writ Petition is dismissed.

[V.M.DESHPANDE, J.]