

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's	Office Coram, Court's or Judge's orders.
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CRIMINAL WRIT PETITION NO. 640 OF 2014

CHANDRASHEKHAR GALAYYA NALLEWAR
VERSUS
YATIRAJAM GALAYYA NALLEWAR AND OTHERS

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Advocate for Petitioners : Mr. Katneshwarkar S. P.
Advocate for Respondent Nos.1 to 4 & 6: Mr. M. G. Biradar, Advocate h/f Mr. P. R. Katneshwarkar.
APP for Respondents:

CORAM: T. V. NALAWADE, J.
DATED: 22nd JUNE, 2015.

PER COURT:

1. Heard learned counsel for the Petitioner for admission purpose though Respondent No.7 is not served. This Court has gone through the nature of dispute and so this Court felt that it is not necessary to await for respondent No.7.
2. In the complaint filed on 1st November, 2011 present petitioner has made allegations that in the year 1990 he had suspicion that his father had not signed on the will document which was being used by his brother

Yatirajam. He had approached police but police did not take action and so he filed private complaint. Order of investigation was made under section 202 of Cr.P.C. by learned J.M.F.C. After receipt of the report and after considering the submissions made by present petitioner, complainant the learned J.M.F.C. dismissed the complaint under section 203 of Cr.P.C. This order was challenged by filing revision No.25 of 2013 in the Court of Additional Sessions Judge, Basmath. Learned Additional Sessions Judge dismissed the revision on merits.

3. The submissions made show that civil dispute is pending between the complainant and his brother Yatirajam. R.C.S. No.89 of 1989 was filed by father of the complainant and it is continued by Kailash. Complainant had taken a stand that Yatirajam had used undue influence and by using undue influence he has got executed the will in respect of the disputed property in favour of his son Kailash. Accordingly, issue was framed by the Civil Court about use of undue influence.

4. The suit came to be decided on 28th October, 1998. This decision is challenged in Regular Civil Appeal No.145 of 1998 and the appeal is still pending in the

District Court, as per the submissions made by learned counsel for the complainant.

5. The submissions made and the record do not show that the stand of forgery was taken by the complainant at any time. The Will is a part of the civil dispute and it can be said that in the trial Court the other side has proved execution of the Will and the issue is decided against complainant. In view of these circumstance, the learned J.M.F.C. has dismissed the complaint under section 203 Cr.P.C. and the decision is confirmed by the learned Additional Sessions Judge. This Court sees no reason to interfere in the decision given by the learned J.M.F.C. and the learned Additional Sessions Judge. The petition stands dismissed.

[T. V. NALAWADE, J.]

Dt.22/06/2015
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