

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3229 OF 2015

- 1) Namdeo s/o Shamrao Kurhade,
Age-65 years, Occu:Labour,
- 2) Sanjay s/o Namdeo Kurhade,
Age-Major, Occu:Labour,
- 3) Raju s/o Namdeo Kurhade,
Age-Major, Occu:Labour,
- 4) Vishnu Namdeo Kurhade,
Age-Major, Occu:Service,
- 5) Vilas s/o Trimbak Adagale,
Age-55 years, Occu:Agril.,
- 6) Subhash Bhanudas Chavan,
Age-48 years, Occu:Agril.,

All R/o-Hiwara, Tq-Ashti,
Dist-Beed.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Police Inspector,
Police Station Ashti,
Tq-Ashti, Dist-Beed,
- 2) Kakasaheb s/o Tukaram Kakade,
Age-46 years, Occu:Agril.,
R/o-Kumbephal, Tq-Ashti, Dist-Beed.

...RESPONDENTS

...
Mr.Rahul Awasarmol Advocate for Applicants.
Mr.M.M. Nerlikar, A.P.P. for Respondent No.1
Mr.A.L. Kanade Advocate for Respondent No.2.
...

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

DATE : 7TH AUGUST, 2015

ORDER :

1. Rule, made returnable forthwith and heard finally with consent of the parties.

2. This Application is filed with following prayer:

"(B) The proceedings bearing RCC No.285/2014 pending before the Ld. Judicial Magistrate First Class, Asthi, Tq.Asthi, Dist-Beed arising out of the charge sheet No.152/2014 in pursuance to FIR vide crime No.162/2013 registered with Police Station, Ashti on 13.09.2013 for the offences punishable U/sec.420, 463, 465, 466, 467, 468, 479, 471, 323, 506 r/w 34 of I.P.C. may kindly be quash and set aside."

3. In pursuance to the notice issued to Respondents, Respondent No.2 has filed affidavit-in-reply on 23rd July 2015. In the said affidavit-in-reply, Respondent No.2 has mentioned about amicable settlement between the complainant and Applicant Nos. 1 to 4. However, another affidavit-in-reply dated 7th August 2015 is tendered across Bar by the counsel appearing for Respondent No.2, stating therein that the complainant and all the Applicants/ original accused have amicably settled the dispute. The learned counsel appearing for the Applicants states that all the Applicants are present in the Court. They are identified by him.

4. The learned counsel appearing for the Respondent No.2 submits that, Respondent No.2 is present in the Court. He identified Respondent No.2. On interacting with Respondent No.2, he stated that, settlement is voluntary act, the affidavit filed is also without any coercion.

Respondent No.2 further states that, he has received an amount of Rupees One Lakh Fifty Thousand in settlement and he has waived his right in respect of the plot which is a subject matter of the dispute.

5. Learned counsel appearing for the Applicants has also tendered across Bar copy of Challan, MTR Form Number-6 accompanied with copy of sale deed. He invited our attention to the contents of the said sale deed, wherein it is stated that the complainant has given consent to execute the sale deed in favour of Arjun Rambhau Kurhade.

6. We have carefully perused the averments in the Application, annexures thereto, affidavit-in-reply filed by Respondent No.2 dated 23rd July 2015 and another affidavit-in-reply dated 7th August 2015, of Respondent No.2 tendered across the Bar today, and we are of the opinion that the

Application deserves to be allowed in order to secure ends of justice and to prevent an abuse of the process of the Court.

7. In that view of the matter, Application is allowed in terms of prayer clause (B) of the Application.

8. Rule made absolute on above terms. Application stands disposed of, accordingly.

9. However, we make it clear that rights crystallized in favour of Arjun Rambhau Kurhade shall remain unaffected independent of this proceedings.

[A.I.S.CHEEMA, J.]

[S.S. SHINDE, J.]