

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 408 OF 2003

Laxmibai W/o Valuba Nikalje .. Appellant

Vs.

The State of Maharashtra and ors. .. Respondents

None present for the appellant

Mr. V.P. Kadam, A.P.P. for the respondent/State

Mr. R.B. Deshpande, Advocate for the respondent no.3

CORAM : M.T. JOSHI, J.

DATE : 07/07/2015

ORAL ORDER :

None appears for the appellant.

2. Heard Mr. Deshpande and the learned A.P.P.

3. Perused the record.

4. Aggrieved by recording of the acquittal of the present respondent nos.2 and 3 from the offence punishable under section 418 of the Indian Penal Code, the present appeal is preferred.

5. The appellant-complainant filed the private complaint before the learned Judicial Magistrate First

Class, Jafrabad on the ground that though the respondent no.2 has agreed to sell his land to her upon receiving an amount of Rs.3,500/-, no sale deed was executed within one month as agreed. The respondent no.2 avoided to execute the sale deed despite persuasion. On the other hand, the respondent no.2 has executed sale deed in favour of the respondent no.3 though the respondent no.3 was well aware of the same. Thus, alleging cheating, the complaint came to be filed.

6. The learned Judicial Magistrate First Class came to the conclusion that the dispute between the parties is of civil nature and even otherwise on merit, the complainant failed to prove beyond reasonable doubt that both the respondents were legally bound by law to protect her interest. Further, reliance on the authorities were placed in order to show that the breach of the promise would not amount to offence of cheating.

7. Considering all the material on record, and the fact that there are no allegations or proof that since inception of the contract, the respondent no.1 had intention not to perform the same, there is no reason to interfere in the reasoning of the learned Judicial

Magistrate First Class. In the result, the following order:-

8. The appeal is hereby dismissed. Bail bonds, if any, of the respondents no.2 and 3 shall stand cancelled.

[M.T. JOSHI]
JUDGE

arp/