

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

Criminal Application No.4749 of 2014

- 1) Dinkar S/o. Mansaram Patil,
Age 42 years,
Occupation : Agriculture /
Police Patil.
- 2) Bhaskar S/o. Mansaram Patil,
Age 35 years,
Occupation : Agriculture
Both r/o At Post Bholane,
Taluka Parola, District Jalgaon. .. **Applicants.**

Versus

- 1) The State of Maharashtra,
Through Police Inspector,
Police Station, Parola,
District Jalgaon.
- 2) Sham Rohidas Jadhav,
Age 40 years,
Occupation : Agriculture,
R/o Vasant Nagar, Parola,
Taluka Parola, District Jalgaon. .. **Respondents.**

Shri. Bharat R. Waramma, Advocate, for applicants.

Smt. R.K. Ladda, Additional Public Prosecutor, for
respondent No.1.

Shri. G.J. Karne, Advocate, for respondent No.2.

**CORAM: T.V. NALAWADE
Smt. I.K. JAIN, JJ.**

DATE : 15th APRIL 2015

JUDGMENT:

1) Rule, rule made returnable forthwith. Heard both the sides by consent for final disposal.

2) This proceeding is filed for the relief of quashing of FIR No.173/2014 registered in Parola Police Station, District Jalgaon. This crime is registered on the basis of report given by Sham Jadhav for offences punishable under sections 167, 177, 182, 193, 408, 420, 468, 471, 474, 477, 34 etc of the Indian Penal Code. It is contended that there is dispute between two families of the complainant and the applicants in respect of land Gat No.286/1 and 286/3 situated at Jirali. This property was standing in the name of Hari Totaram Naik and Govind Totaram Naik. Hari executed sale deed in respect of land Gat No.286/1 on 6-6-1981 in favour of Mansaram Patil. Govind executed sale deed in respect of land Gat No.286/3 in favour of Mansaram, predecessor of the applicants on 23-6-1981. Possession of this land was given under sale deeds and the sale deeds were registered.

3) The complainant is the heir of aforesaid two vendors. It is his case that aforesaid transactions were not out and out sale but they were loan transactions and the documents were executed by way of security. It is contended that in respect of transaction of land Gat No.283/3 a separate document was also created to show that the land was to be re-transferred by the purchaser after receiving payment of the consideration from the vendor.

4) It is the case of the complainant that behind his back, the revenue entries were made and some orders of revenue authorities were falsely prepared and lands were shown to be transferred in the names of the present applicants Dinkar and Bharat, sons of Mansaram Patil. He has contended that false record is created and so fraud has been committed. There are some allegations in respect of running of ration shop against the applicant when he was working as Police Patil also. But those allegations cannot be considered for the purpose of investigation.

5) This Court had called record from the revenue authority to ascertain as to whether partition was effected and orders in that regard came to be passed by the Tahsildar. The record shows that application was made by Mansaram showing that partition had taken place amongst them. Accordingly names of the present applicants were entered in the revenue record long back. Thus after following procedure, the names of the present applicants were entered in the revenue record. The case of the complainant is that there was agreement of re-transfer of the property but that circumstance cannot be used to show that offence is committed by present applicants. Thus there is some dispute of civil nature between the parties. It appears that on the basis of the report given by Dinkar against present respondent No.2 Sham Jadhav, crime came to be registered against Sham Jadhav for offence punishable under section 384 Indian Penal Code on 29-1-2014. Present report came to be given on 19-7-2014. Thus this Court holds that allowing to continue investigation of the present FIR given against the applicants will amount to abuse of process of law.

6) In the result, the application is allowed. FIR No.173/2014 registered in Parola Police Station, for the aforesaid offences is hereby quashed and set aside. Rule is made absolute in aforesaid terms.

Sd/-
(Smt. I.K. JAIN, J.)

Sd/-
(T.V. NALAWADE, J.)

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