

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

Criminal Writ Petition No.1008 of 2014

Vijay s/o Ganesh Patil.

.. Petitioner.

Versus

The State of Maharashtra
And Others.

.. Respondents.

Shri. A.I. Deshmukh, Advocate, for petitioner.

Smt. R.K. Ladda, Additional Public Prosecutor, for
respondent Nos.1 and 2.

Shri. Sushant V. Dixit, Advocate, for respondent No.3.

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

DATE : 25th MARCH 2015

ORDER:

1) The proceeding is filed for quashing and setting aside First Information Report in Crime No.55 of 2014 registered with Nashirabad Police Station Jalgaon, District Jalgaon for offences punishable under sections 420, 465, 466, 467, 471, 438, 34 of the Indian Penal Code in respect of the petitioner.

2) The crime is registered on the basis of report given by one Hemant Belsare. He has contended that he and his brother Arun Belsare were owners of land Gat No.2152 situated at Nashirabad and the land was admeasuring 3.61 Hectares. He has contended that it was ancestral property and at the time of partition as per the settlement which took place amongst members of Joint Hindu Family the other members of the joint family relinquished their rights in respect of the aforesaid land in favour of the complainant and his brother Arun Belsare and that was done on 15-4-2011. According to him, on the basis of the information given to the revenue authorities and the relinquishment deed, mutation was effected bearing No.18745 and accordingly 7/12 extract was issued. It is contended that due to this relinquishment and the mutation the persons like Ramesh Ramdas Belsare had no right left in the aforesaid property and similarly the other five members of the Hindu joint family were also not having any rights in the property.

3) It is the case of the complainant that present petitioner Vijay Patil joined hands with the revenue

authority and he somehow got entered name of Ramesh Belsare again in the revenue record to show that he had share in the property and then he got entered the notice of *lis pendent* given by him to the revenue authority in the revenue record. It is contended that name of Ramesh was also shown in the possession column. It is contended that all those things were done behind the back of the complainant and his brother who had become absolute owner of this property. It is contended that by using this record, in some portion agricultural operation was also done by Vijay. In view of these allegations crime came to be registered for the aforesaid offences against Vijay Patil and the revenue officers.

4) The learned counsel for the applicant Vijay Patil took this Court through copy of agreement which was between Vijay Patil and Ramesh Belsare dated 21-11-2005. He also took this Court through copy of plaint of Special Civil Suit No.174 of 29011 to show that the suit was filed on 17-2-2011 against Ramesh Ramdas Belsare. The suit was for specific performance of contract mentioned in the aforesaid agreement of sale. It appears

that notice was given under section 52 of the Transfer of Property Act to the revenue authorities by Vijay and he had asked the revenue authorities to make entry of the suit filed by Vijay in the revenue record. Surprisingly on the copy of this notice there are signatures of both Ramesh Belsare and Vijay Ganesh Patil. There was however no registration of this suit under provisions of Registration Act.

5) As against the aforesaid record produced, there is revenue record showing that Ramesh Belsare had relinquished his right in the aforesaid property and then as per the document of relinquishment executed by Ramesh and other five members of the joint family mutation was made. Papers of investigation and the affidavits show that the revenue authority had informed to police that due to oversight entry in name of Ramesh was again made in the revenue record. The police have formed opinion about the present applicant, who is in business of selling and purchasing property, that had joined hands with Ramesh Belsare and the revenue officers and they got papered new record and it was done behind the back

of the complainant and his brother.

6) The aforesaid record apparently show that there is possibility of collusion between Vijay Patil and Ramesh Belsare and some record was created behind the back of the complainant and his brother when they were shown absolute owners and names of other members were deleted after relinquishment of the right. Thus it cannot be said that there is no material against the petitioner and false allegations are made against him. When the so call agreement was executed in the year 2005 and the relinquishment was made after that, suit was filed on 17-2-2011 apparently beyond period of limitation. In view of the peculiar circumstances, this Court holds that it is not a fit case where writ jurisdiction needs to be used.

7) In the result, the petition stands dismissed.

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

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

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