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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1091 OF 2015**

Shri. Sakharam Ganpati Nikam ... Petitioner

Versus

The State of Maharashtra and Ors. ... Respondents

Mr. Manoj Patil for the petitioner.

Ms. Nirmala Patil, respondent no. 2 present in person.

Smt. V.S. Mhaispurkar, A.P.P. for the State.

**CORAM : M.L. TAHALIYANI, J.
DATED : APRIL 28, 2015**

P.C.

Admit. Heard finally.

2. The petitioner has impugned the order passed by the learned Ad Hoc Additional Sessions Judge, Kolhapur thereby dismissing the revision application filed by the petitioner against the order of the Judicial Magistrate, First Class, Kolhapur issuing process against the petitioner to answer the charge for the offences punishable under sections 468, 471 of Indian Penal Code read with 34 of Indian Penal Code. The forged document in question is partition deed. Respondent no. 2 Nirmala Patil had filed a complaint against respondent no.3 Ajit Singh and Others alleging forgery, at Lakshmipuri Police station, Kolhapur. The alleged forgery was in respect of

partition deed executed by two brothers of respondent no.2 and her mother. Police, after completion of investigation had filed chargesheet against respondent no. 3. During the course of hearing of the said chargesheet, it was revealed by the trial Magistrate that the petitioner had also signed partition deed as a witness. It was alleged that the petitioner knew the family of respondent no.2 very well and therefore, it was within his knowledge that Smt. Durgadevi Ghatage, Nanasaheb Ghatage and Ajit Singh were not the only legal heirs of deceased Dattajirao Ghatage. It was alleged that therefore petitioner was party to the alleged forgery and using the forged document as a genuine document.

3. Learned counsel Mr. Manoj Patil has submitted that there is no material against the petitioner to frame charge either under section 468 or under section 471 of the Indian Penal Code. It is not disputed that the document was signed by the petitioner. It appears that the petitioner was knowing the family of respondent no.2 and that he was aware that there were other legal heirs also of deceased Dattajirao Ghatage. Despite having this knowledge, the petitioner had signed the partition deed as a witness. *Prima facie*, there was sufficient material to attract Section 34 of the Indian Penal Code. In my opinion, process issued by the learned Magistrate was based on prima facie material. Revision application has been rightly rejected.

4. The other issue raised by the learned counsel for the petitioner is that the partition deed was produced before the revenue authorities for carrying out mutation. As such alleged forgery was committed in respect of the document produced as evidence in the 'proceedings in any court'. Even if

it is presumed for the sake of argument that the proceedings before the Revenue Authority were the proceedings in any court, the fact remains that the document was already allegedly forged and thereafter it was given in the proceedings. The alleged forgery was not committed in respect of the document which was already produced in the proceedings. Therefore, protection under section 195 of the Code of Criminal Procedure is not available to the petitioner. I do not find any substance in the petition. Petition stands dismissed. The proceedings before the trial court to be expedited and trial to be concluded within a period of six months from today.

Writ petition stands disposed of accordingly.

(JUDGE)