

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 461 OF 2014

Alpesh A. Karale .. Applicant

v/s.

The State of Maharashtra & Anr. ..Respondents

Mr. Pratap Patil i/b Manoj Kadam for the applicant

Mr. Gaurav Parkar for respondent no.2

Mrs. P.H. Kantharia, APP for the respondent State

**CORAM: RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 25th MARCH, 2015.

P.C.

1. Heard. The petitioner has approached this Court invoking inherent powers under Section 482 of the Cr.P.C. for quashing the FIR No.28 of 2014, registered on 12.04.2014 with Neral Police Station and the order dated 21.03.2014 passed by the learned Judicial Magistrate First Class, Karjat in Regular Case No.122 of 2013.

2. The respondent no.2 herein had filed regular Criminal Complaint No.122 of 2013 before the Judicial Magistrate, First Class at Karjat against the owners of Survey No.77/3-D namely, Manjula Sonawale, Vinayak Sonawale, Nilesh Sonawale, Shobha Kolekar and the present applicant for issuance of directions under Section 156(3) of the Cr.PC. As stated above, the learned Magistrate passed an order under Section 156(3) on 21.04.2014 and in pursuance of the said order, FIR No. 28 of 2014 came to be registered by the Neral Police Station.

3. The copy of the said FIR is annexed at Exh.H-1, page 106. Allegations are made that on 03.05.2005, an unregistered agreement for sale of land for Survey No.77/3-D admeasuring 16-R was executed by the owners in favour of respondent no.2 – complainant. In the year 2010, the respondent no.2 complainant has filed Special Civil Suit No.598 of 2010 (renumbered as R.C.S. No.62 of 2012) against the owners for specific performance. During the pendency of the said suit, the owners executed

registered Sale Deed, dated 25.07.2012 in respect of the land bearing Survey No.77/3-D in favour of the present applicant and thereafter the applicant is impleaded as party respondent in the said suit, filed by the respondent no.2. The sole allegation made by the respondent no.2 against the applicant is that despite agreement of sale in respect of land bearing Survey No.77/3-D in favour of respondent no.2, the applicant has purchased the very same land by registered sale deed.

4. It is settled position of law that agreement simplicitor does not create any interest / right over the land. The respondent no.2 at the most can file a suit to enforce his right and infact he has filed such suit against the owners of the said land owners. In our considered view, the dispute between the parties is of civil nature. The complaint does not reveal commission of the cognizable offence and the same deserves to be quashed and set aside. It does not discloses any cognizable offence qua the applicant.

5. The Criminal Application is accordingly allowed in terms of prayer clause (a), qua the applicant.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)