

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

CRI. WRIT PETITION NO. 1763 OF 2014

Shri Suresh Ramakant Padwal ... Petitioner.

V/s.

Mr. Mohanlal Otarmal Jain & Ors. ... Respondents.

WITH

CRI. WRIT PETITION NO. 2040 OF 2014

Shri Suresh Ramakant Padwal ... Petitioner.

V/s.

Mr. Mahendra V. Sonsurkar & Ors. ... Respondents.

WITH

CRI. WRIT PETITION NO. 2041 OF 2014

Shri Suresh Ramakant Padwal ... Petitioner.

V/s.

Smt. Urmila Anant Dinde & Anr. ... Respondents.

WITH

CRI. WRIT PETITION NO. 2068 OF 2014

Shri Suresh Ramakant Padwal ... Petitioner.

V/s.

Mr. Bhaskar A. Adarkar & Ors. ... Respondents.

Mr. Subhash Jha a/w Miss. Rushita Jain i/by Law Global Advocates for the Petitioner in all the Petitions.

Mr. M.S. Mohite a/with Mr. S.V. Kotwal i/by Omkar Mohan Kulkarni, Advocate for Respondent Nos. 1 to 3 in W.P. No. 1763 of 2014.

Mr. Rahul Hande, Advocate for Respondents in W.P. Nos. 2040/2014, 2041/2014 & 2068/2014.

Mr. Deepak Thakre, APP for the State.

CORAM : A. V. NIRGUDE, J.
DATED : 20th NOVEMBER, 2015

P.C. :

1 All these writ petitions challenge the judgment and order dated 2nd January, 2014 passed by the learned Additional Sessions Judge, Greater Mumbai, in Criminal Revision Application No. 118 of 2013. By this impugned judgment, the learned Judge set aside the order, issuing process against the present respondents, the original accused nos. 9 to 11 in Criminal Complaint No. 117 of 2012 which is pending before the learned Metropolitan Magistrate, 25th Court at Mazgaon Mumbai. Criminal Case No. 117 of 2012 was initiated by the Petitioner. He made allegations in his complaint that the Respondents and other accused had committed offences punishable under sections 463, 468, 472, 120-B of Indian Penal Code. He narrated his complaint in detail and if one reads the complaint minutely, one gets a clear indication that no offence is made out against any of the

accused named in the complaint. I will not refer to the facts mentioned in the complaint but explain as to how this complaint or the statements made therein, do not make out any case against any one, warranting issuance of a process.

2 The petitioner is an Advocate. He is a member of a Co-operative Housing Society, which is situated in a Mazgaon area of Mumbai. This society owns a large piece of land and all the members of the Society decided that they should demolish the building that existed on the plot and re-develop new buildings thereon. A Special General Body Meeting was conveyed on 6th August, 2000, in which it was indicated by the office bearers of the Society that the re-development work would be given to one M/s. Darshan Developers of which the Respondents are the partners. A copy of the development agreement, giving the details of the building etc., to be constructed on the plot, was also circulated among the members of the society. The members, however, indicated to the office bearers of the society that since the draft agreement is in Marathi language, they would require its English translation etc.. Accordingly, a meeting was adjourned to 13th August, 2000. The office bearers of the society assured all the members that they would get a copy of the agreement. Thereafter, on 13th August, 2000, a meeting took place and according to the petitioner, the resolution, approving the development agreement with M/s.

Darshan Developers was defeated by majority of the members of the society. The petitioner states that thereafter, he learnt that the society had undertaken development on the plot of land. This surprised him and so he started search of documents which enabled the society starting development. He found that on 9th June, 2001, the society had entered into a registered development agreement with the respondent's firm to which a copy of resolution of the general body meeting was annexed. The petitioner did not start any criminal case in 2001 or thereafter.

3 This complaint was made on 7th April, 2012, alleging that the resolution, development agreement and all the documents were forgeries.

4 The question is whether the documents are forgeries ?.

5 The only document that is susceptible to allegation of forgery, is the resolution of 13th August, 2000. I perused the copy of this document. I wanted to find out whether at least this document could be said to be a forgery. It is the case of the petitioner that the minutes of the meeting were purposely written fraudulently and it contained false statements. The minutes did not reflect what transpired in the meeting. Assuming that this is the allegation in the

complaint (I purposefully using the word “ assuming” because even this is not stated in the complaint clearly). The question is whether writing of the minutes depicting falsehood would amount to a 'forgery'.

6 Having regard to the relevant provisions of sections 463 and 464 together, I am of the considered view that such an act would not amount to a forgery. In view of this, there is no point in taking the case further.

7 The learned counsel for the petitioner placed reliance on at least three judgments of the Apex Court, which are as under : (i) **(2003) 6 Supreme Court Cases 175**; (ii) **(1983) 1 Supreme Court Cases 9**, and (iii) **(2004) 1 Supreme Court Cases 691**. The learned counsel for the petitioner placed reliance on various paragraphs of these judgments. But I am afraid that the ratios of these judgments are far beyond the factual aspects of this case. Besides, I must record that, I find the complaint is an act of a spiteful litigant, who wanted to take vengeance.

8 All these writ petitions are dismissed.

(A.V.NIRGUDE,J.)

.....