

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

CRI. WRIT PETITION NO. 2435 OF 2013

Mr. Mumtaz Ahmed Yunus Bhatkar ... Petitioner.

V/s.

The State of Maharashtra & Ors. ... Respondents.

Mr. Mohd. Saeed A. Mohul, Advocate for the Petitioner.

Mr. Rajesh More, APP for the State.

Mr. Amit Date i/by Anil Galgali, Advocate for Respondent Nos.
2 to 4.

CORAM : M.L.TAHALIYANI,J.

DATE : 31st MARCH, 2015

P.C. :

1 Admit. By consent, heard finally at the admission stage.

2 The petitioner is aggrieved by the judgment and order passed by the learned Additional Sessions Judge, granting / allowing the criminal revision application no. 13 of 2013 and setting aside the order issuing process against the Respondent Nos. 2 to 4. Said criminal application was filed by the respondent nos. 2, 3 and 4.

3 Respondent nos. 2,3 and 4 were summoned as the accused by the learned Judicial Magistrate, First Class, Chiplun in criminal misc. application no. 145 of 2012 to answer the charge for the offences punishable under sections 120-B, 173, 175, 176, 177, 181, 182, 193, 196, 199, 200, 209, 404, 406, 417, 418, 420, 424, 465, 466, 468, 471 read with section 34 of the Indian Penal Code. The petitioner was the complainant in the said complaints.

4 The petitioner claims to be the grandson of Sharifa Bawasaheb Bhatkar who expired on 03.12.1988. It is alleged that respondent no.3 - Noormahammad Hasan Chougule - by producing false and forged documents got the mutation done in the revenue record and got the said property transferred in the name of Smt. Abidabibi Bawasaheb Bhatkar. Abidabibi B. Bhatkar is accused no.1. Respondent No.4 was the panch witness to the documents prepared by the Talathi.

5 I have gone through the whole complaint and I do not find anything in the complaint to show as to what act of either of the accused amounted to forgery or any other offence as alleged in the complaint. The allegations no doubt are made that the forged documents were produced before the Talathi but it is not made clear as to what documents were forged and in which manner they are alleged to be forged documents. Most interesting and rather shocking thing is that number of

various sections of Indian Penal Code have been added for which summons have also been issued without examining as to whether those sections are applicable or not. This is a gross abuse of process of law. The learned Sessions Judge has rightly allowed the revision and set aside the order of the learned Magistrate.

6 In my opinion, this order does not require much elaboration as there is nothing in the complaint and the order of the Magistrate is absolutely hopeless and without application of mind.

7 Writ petition is, therefore, dismissed.

(JUDGE)

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