

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

CRIMINAL WRIT PETITION NO. 3864 OF 2013

Arun Sampatrao Patil ... Petitioner
V/s.
Milind Dinkar Kadam & Anr. ... Respondents

Mr. Nitin Padmakar Deshpande for the Petitioner.
Mr. D.P. Adsule, A.P.P. for the State.

CORAM : A. V. NIRGUDE, J.

DATE : 16th NOVEMBER, 2015.

P.C. :

The petitioner-original complainant has filed this Petition challenging order dated 26.07.2013 discharging original-accused No.2 who is now respondent No.1. The complainant made following allegations against respondent No.1 and his father Dinkar who died during the pendency of the case. The facts of the case are as under :

2 There are few pieces of land near Kolhapur. This land belongs to certain group of persons who were Vatandars. They held these lands as restricted tenure. Prior to 23.08.2007, they all agreed to sell their lands to one Dinkar, who happened to be the father of respondent No.1. On 23.08.2007, the petitioner agreed to purchase Dinkar's right pertaining to the lands and accordingly, a settlement took place between them. Dinkar gave up his rights in respect of these lands in favour of the petitioner. In consideration of this,

petitioner paid sum of Rs.15,00,000/- to Dinkar as part payment. He agreed to pay some more amount through a postdated cheque. Dinkar in turn agreed that he would persuade Vatandar to execute transfer deeds in favour of the petitioner. He agreed further that if he failed to do so, he would not accept further amount from the petitioner. It so happened that Dinkar could not persuade vatandar and transaction did not take place. The petitioner did not get the lands but lost Rs.15,00,000/-. Therefore, he filed criminal case against Dinkar and his son Milind. The learned Judge of the lower Court discharged Milind mainly because Milind did not participate in the agreement. In any case, even assuming that Milind was party to the agreement and even when Milind could have shared common intention which his father has, I do not see any offence being committed in this case. It was contingent contract between petitioner and Dinkar. The petitioner took a risk which was a business transaction. Since the transaction did not materialise no offence could be alleged against Dinkar or his son. Therefore, no offence can be said to have been committed. For these reasons, petitioner deserves to be discharged.

3 The Petition is dismissed.

(A.V.NIRGUDE, J.)