

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAILAPPLICATION NO. 1611 OF 2014

Sadik Ibrahim Bagwan	...	Applicant
vs.		
The State of Maharashtra	...	Respondents

Mr. S.V.Kotwal, a/w Mr. Avinash Khamkhedkar, Advocate for the applicant
Mr. Arfan Sait, APP, for the respondent-State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 5th January, 2015.

P.C.

Heard. This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicant is apprehending his arrest in Crime No.114 of 2014 registered at Indapur Police Station for offences punishable under Sections 363, 306, 452, 323, 504, 506 read with Section 34 of Indian Penal Code.

2. The case of the prosecution is that on 1.9.1997, one Bhimrao Daji Jagtap had entered into a conditional mortgage of his agricultural land admeasuring 80 Ares with the present applicant. It was agreed between the parties that the amount of Rs.65,000/- borrowed by Bhimrao Jagtap was to be returned within a period of one year and thereafter the title to the land would be

released. It was specifically agreed that in the eventuality that the amount is not paid, the mortgage would become absolute, more precisely on 1.9.1998. It is apparent that Bhimrao Jagtap had not repaid Rs.65,000/- and hence the applicant had become the absolute owner of the said land. Bhimrao Daji Jagtap filed Regular Civil Suit before the Court of Civil Judge, Junior Division, Indapur, which was registered as R.C.S. No.139 of 2000. By a judgment and order dated 31.1.2003, the suit seeking the relief of re-conveyance of documents dated 1.9.1997 and, in the alternative, a relief for possession was dismissed by the Court. Being aggrieved by the dismissal of the Civil Suit, an appeal was filed before the Adhoc Addl. Sessions Judge, Baramati, an appeal was dismissed by a judgment and order dated 28.10.2005. The appeal was also filed by Bhimrao Daji Jagtap i.e. father of Bapu Jagtap. Being aggrieved by the dismissal of the appeal, Bhimrao Jagtap had filed a Second Appeal before this Court, which was registered as Second Appeal No.1589 of 2005. This Court vide order dated 14.8.2006 was pleased to dismiss the appeal at the stage of admission. This Court, while deciding the appeal, had specifically observed that on perusal of the plaint, it is crystal clear that there are no averments made in the plaint as regards existence of mortgage transaction and neither for redemption of mortgage and hence the concurrent findings recorded by both the Courts was confirmed.

3. On 29.1.2013, Bapu son of Bhimrao Jagtap committed suicide. On 30.8.2013, Shobha wife of deceased Bapu Jagtap, filed a complaint before the Judicial Magistrate, First Class, Indapur, alleging therein that they belong to Scheduled Caste. It is stated in the FIR that her husband and her father-in-law had issued notices to the present applicant for getting executed the title of the said land of Gat No.251/1A, 1/1A and 1/1B in his own name. It is admitted that her father-in-law had taken money on interest from the applicant. The period of conditional mortgage had come to an end in September, 1998. It is alleged that the applicant is in possession of the said land and that the complainant was residing in the house situated on the disputed land. It is alleged that the present applicant was insisting upon the said family to vacate the said house as he is in possession of the agricultural land. She has alleged that her family was insisting upon the applicant to take the money and return the land. The applicant had quoted a price of Rs.25 lakhs. It is further alleged that on 20.1.2013, the applicant had come to her house with four unknown persons and had abducted her husband. That her husband was assaulted. It is further alleged that on 29.1.2013, the applicant had again visited the house of the complainant along with 3 – 4 unknown persons and had humiliated the family members and threatened her husband of dire consequences and hence on 29.1.2013, he had committed suicide. According to the complainant, the applicant abetted the

commission of suicide.

4. By an order dated 3.4.2014, the learned Judicial Magistrate, First Class, Indapur, had passed an order directing investigation under Section 156(3) of Cr.P.C. Pursuant to the said order, Crime No.114 of 2014 is registered against the present applicant.

5. It prima facie appears that the father-in-law of the complainant had filed several proceedings against the present applicant. The said Civil Suit, First Appeal and the Second Appeal were dismissed by the respective Courts. It appears, prima facie, that the applicant was insisting upon the complainant to vacate the house which was situated on the disputed land. The husband of the complainant was frustrated and had committed suicide. In fact, the transaction was between the applicant and the father-in-law of the complainant. The complaint has been filed almost 8 months after the commission of suicide. There is no plausible explanation for the inordinate delay in approaching the Court of law. Prima facie, it does not appear that the applicant had abetted or instigated the husband of the complainant to commit suicide.

6. The learned counsel for the applicant submits that in the abovementioned circumstances, custodial interrogation would not be imperative and that the applicant would co-operate with the investigation to the best of his capacity.

7. The observations made hereinabove are prima facie in nature and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial as they pertain to the application under Section 438 of Cr.P.C. only.

O R D E R

(i) In the event of his arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount.

(ii) The applicant shall report to the Investigating Officer as and when called.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)