

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.424/2014

Trimbak Tukaram Khanderao and anr. ..vs.. Dyaneshwar Shaligram Bhore & anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. J. B. Gandhi, Advocate for applicant.
Mr. P. S. Patil, Advocate for non applicant no.1.
Mr. Bangadkar, A.P.P. for non applicant no.2.

CORAM : A.B. CHAUDHARI, J.

DATE : JULY 6, 2015.

Heard learned counsel for the parties.

I quote paragraphs 8 and 11 of judgment
delivered by the learned Sessions Judge in Criminal
Revision No.15/2013, which read thus:

“8. The Ld. Magistrate has observed
that, “the complainant in his statement u/s
204 of Cr.P.C. Has stated that in R. C. S. No.
127/2004 accused had used the property
Extract [Akhiv Patrika] of plot No. 370
standing in the name of complainant,
whereas the complainant claims that he does
not own such plot having acquainted with
property extract Ex.29. The concerned office
had informed the complainant that Sheet
No.2 of Akot is blank and no such plot
no.370 is in existence. The Ld. Trial Judge
further observed that due to such certificate of

the Settlement Officer the complainant realised that the accused had utilised the documents which appears to be fabricated one. The document reflects that plot No.370, area 122.3 Sq. meters of Akot town [sheet No.2] stands in the name of the complainant. However, the certificate shows that no entry is available on Nazul Record about said plot. Heaping such evidence at prima facie stage the complainant asserts that accused had made false document and that too of the public record. The complainant further blamed that the accused had used such fabricated and false document as genuine one, knowing that it is not genuine one.”

9 & 10.

11. Having gone through the R & P of R.C.S.No. 21/2006 and the documents filed with it, I am satisfied that there is sufficient evidence against the petitioners hear-at. At the stage of issuance of process the Ld. Magistrate is not required to looked into the probable defence, but is required to see whether the facts as alleged in the complaint, if proved make out an offence and if there is some material on record in support of teh facts alleged and whether there appears such

prima facie material on record to proceed against them. Therefore, the impugned order of issuing process/warrant passed by the Ld. Magistrate cannot be faulted at all. On the contrary, it being quite just, proper and correct, no interference is required in it by this Court under the revisional jurisdiction.”

I find that the revisional court has recorded a finding fact as to why order of issuance of process that too after one year of payment made should not be issued and I agree with the same. That being so, following order is passed.

ORDER

(i) Criminal Application (APL) No. 424/2014 is rejected.

JUDGE