

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL WRIT PETITION NO. 1064 OF 2015

ASHOK DAMDU CHAVAN
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Advocate for Petitioner : Ms Rashmi S. Kulkarni.
APP for Respondent No.1 : Mrs. A. V. Gondhalekar.
Advocate for Respondent No.2 : Mr. Ajay G. Talhar.

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CORAM : **A. V. NIRGUDE &
INDIRA K. JAIN, JJ.**

DATE : 23rd February, 2016.

ORDER:

. This writ petition seeks quashing of complaint, which is related to Crime No.27 of 2015 of Ramananda Nagar Police Station, Jalgaon.

2 Complainant purchased five plots enclosed proximity of Jalgaon town from one Munot in 2013. On one side of the plots, there lies Railway line. Railway owns land beyond the disputed plots. In 2011, Munot's predecessor got the land measured from District Land Records. At that time, the present Petitioner was working as supervisor under the DILR. He visited the plots and prepared a map

showing that the plots are not encroached on any side and there lies a development road of 18 meters width on one side of the plots. Such measurement map was obtained by the Vendor and the same was shown to the Complainant when the plots were sold. The Complainant / Vendor admitted that they had occasion to visit the plots before the transaction but they did not investigate the title, area of the plots in question in detail. They believed the statement of their Vendor Munot and purchased the plots. Further when a third party wanted to buy some the property, he insisted that he would go and investigate the area of the plots. He found out that the plots in question did not have the area, which was promised by the Vendor. Chandrashekhar Mantri, the Complainant thus alleged that he was cheated by Ramesh Munot as well as the present Petitioner who prepared a false map.

3 On perusal of this complaint we have no doubt that the dispute is of civil nature. The purchaser and her husband, the Complainant ought to have examined before entering into transaction the actual area of plots which they were purchasing. They could not have placed reliance blindly on the map which was prepared about two years back. The map, which the Petitioner prepared shown the position, which existed in 2011. The buyer should be aware that there

could have been some changes in last two years. They ought to have taken fresh measurements of the plots in question, got them demarcated and then ought to have purchased them. Had they taken such care, they would not have felt cheated. In the sale-deed executed by Munot in favour of the Complainant's wife, there is a clear mention that D.P. road might not be of 18 meters width. There is a clear indication that there could have been some difficulty in the actual area, which was agreed to be sold to the Complainant's wife. The sale-deed even mentioned that since the width of the road is less than what was shown in the map, the consideration for the transaction was reduced proportionately. In such situation, the Complainant cannot assert now that he and his wife were cheated. No element of cheating exists in the complaint. There is allegation against the Petitioner that he prepared a false map but there is no attempt to prosecute him for forgery etc.

4 In view of this, we allow the petition. Hence, we set aside the complaint against all the concerned.

[INDIRA K. JAIN, J.]

[A. V. NIRGUDE, J.]