

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

CRIMINAL APPLICATION NO. 6476 OF 2015

MOHAMMAD IDRIS S/O HAJI MOHAMMAD ISMAIL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. S. S. Kazi.
APP for Respondent No.1 : Mrs. A. V. Gondhalekar.
Advocate for Respondent No.2 : Mr. B. M. Dhanure.

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

DATE : 03rd March, 2016.

ORAL ORDER:

. The Applicants are accused in Crime No.116 of 2015, registered with Vimantal Police Station, Nanded. The Complaint is Respondent No.2.

2 We have perused his complaint and realized that the dispute, if any, could be of civil nature. Filing of the complaint on the basis of allegations in the complaint was not permissible.

3 Respondent No.2 – Satish mentioned in the complaint that his father Narayan had three more brothers. During lifetime of all these brothers, partition of ancestral property took place between them and certain shares were allotted to Narayan. Certain shares were also

allotted to other brothers. Satish further said that his cousins sold their shares and while doing so, they acted fraudulently. Satish however, did not say as to what happened to the shares that went to his father Narayan. Satish did not allege in the complaint that the Accused took away land belonging to his father's share. Satish alleged that behind his back and behind the back of his father, his cousins and uncles sold away his father's property fraudulently. If Satish could prove that the lands sold by his cousins and uncles belonged to his father, he may get the property back by filing appropriate civil proceeding. Selling away third party's property would not amount to offence against the owner of the property. It at the most would amount to offence against the purchaser, who suffers loss in such transaction. He would not get title and yet he would loose his money. The entire complaint indicated that Satish many years after his father's death has initiated this proceeding on the ground that his father's property was sold away fraudulently by his cousins and uncles and he should get back that property. Such a complaint should be subject matter of a civil suit.

4 Accordingly, Criminal Application is allowed in terms of prayer clause (B).

[INDIRA K. JAIN, J.]

[A. V. NIRGUDE, J.]