

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

CRIMINAL WRIT PETITION NO. 2777 OF 2014

Nemichand Chimanlal Oswal

... Petitioner

vs.

Bhushan Madhavrao Raut and ors.

... Respondents

Mr. Mandar Limaye a/w Mr. Mahendra Agavekar, Advocate for the petitioner.

Mr. Tejas Hilaye, Advocate for respondents No.1 and 2.

Mr. A. S. Shitole, Additional Public Prosecutor for the State.

Coram : Smt. R. P. SondurBaldota, J.

Date : 3rd February, 2016.

P. C. :

1. This petition is directed against the order dated 5th June, 2014, by which the Sessions Judge, Kolhapur allowed Criminal Revision application No.157 of 2011 and set aside the order of the trial Court passed in Criminal Misc. Application No.1130 of 2009 directing the police under Section 156(3) Criminal Procedure Code to investigate into the complaint of the petitioner.

2. The petitioner had filed Regular Criminal Case No. 752 of 2011 for the offences punishable under Section 465, 467, 468, 471, 420 r/w 34 I.P.C. and sought direction under Section 156(3)

of Criminal Procedure Code for investigation. After investigation the police filed report with the transaction reflected in the complaint is of civil nature and no offence is made out as alleged by the petitioner. The trial Court, therefore, called for say of the petitioner, heard the arguments and issued process under Section 465, 467, 471, 420 r/w 34 I.P.C. Being aggrieved by the order, respondents No.1 and 2 approached the District Court with revision application contending that the dispute raised by the petitioner is of civil nature and ingredients of none of the offences alleged are established by the facts alleged.

3. The brief case of the petitioner in the complaint is that the accused had entered into development agreement with him in respect of the land ad-measuring 42 R. at Gat No.183. But they failed to complete the transaction, hand over possession of the land to him and execute irrevocable power of attorney in his favour. The petitioner had got his name entered into 7/12 extract and in the other column on the basis of the agreement. The respondents took out proceedings for getting the entry of name of the petitioner in the 7/12 extract cancelled. Thereafter, they issued public notice in a newspaper and then sold the property to a third person. On the basis of these facts, on the record it has been held that the dispute between the parties is a dispute of civil

nature and does not make out any of the offences for proceeding against the respondents.

4. The above facts alleged in the complaint patently establish that the transaction between the parties was essentially of civil nature without any overtones of criminal nature. Hence, there is no infirmity whatsoever, in the view taken by the Sessions Court. All that the petitioner had in his favour was a development agreement. Any grievance as regards cancellation of the entries in the revenue records can also not be an offence because the respondents had resorted to due process of law for the purpose. They had filed applications before the concerned authorities, which applications were considered favourably towards respondents and the entries in the revenue records cancelled. Hence, the petition is dismissed.

[Smt. R. P. SondurBaldota, J.]