

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

**CRIMINAL WRIT PETITION NO.89 OF 2015
IN
CASE NO.33/SW/2010**

Rajendra Rameshchandra Chaturvedi & Ors. Petitioners

Vs.

Dilip Sitaram Kapadia & Anr. Respondents

Mr. M.G. Shukla i/by M.D. Pareek, Advocate for the Petitioners.

Mr. Ramesh Jain, Advocate for Respondent no.1
P.B. Bhosale, APP for the State.

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

Date : 9th February, 2016.

P.C.

1 This petition is directed against the order dtd. 30th August, 2013, by which the trial court issued process against the petitioners for the offences punishable under Sections 406, 420, 465, 467, 468, 470, 471 read with 120B of the Indian Penal Code. The order of issuance of process is confirmed by the Sessions Court, by it's order dtd.22nd December, 2014 passed on the revision application preferred by the petitioners. The petitioners are original accused nos. 4 to 6, who carry on business in the name and style of Shripati Investments. Respondent

no.1, the original complainant is one of the co-owners of the property in question. The other co-owners are original accused nos. 1 to 3.

2 Respondent no.1 alleges in the complaint that “accused no. 1, 2 and 3 in joining hands with accused no.4 in particular have done certain mischief in the original documents at the office of B.M.C. Corporation of Greater Mumbai, Mahapalika Marg, Fort, Mumbai and also at the office at Land Record 'D' Ward, Old Customs House, Ballard Pier, Mumbai and other relevant offices pertaining to the records and the correspondence with regard to the said plot of land and the structures standing thereon”. The plot of land and the structures as described in the complaint are “ the immovable property being a plot of land bearing old No.61 and new no.574, old survey No.482, new survey no.7616 and C.S. No.429 of Girgaon Division, 'D' Ward, Khadilkar Road, Kandawadi, Girgaon, Mumbai 400 004. The said plot is admeasuring about 1085 sq. mtrs. and there are several structures which are used for residential as well as commercial purposes, occupied by various tenants/occupiers on monthly rental basis”.

3 Respondent no.1 alleges that the petitioners alongwith three other accused persons have prepared false documents of tenancy agreements in the building in respect of commercial premises, on the land which is not even in existence. The total consideration under those agreements is of Rs.1,92,00,000/-. The police inquiry with the Land Record Department has revealed that the land described in the

documents is not in existence.

3 Mr. Shukla, the learned advocate for the petitioners submits that petitioners no. 2 and 3 even as per the complaint are only sleeping partners and all the documents in question have in fact been signed only by petitioner no.1 on behalf of himself and petitioners no. 2 and 3. Therefore, no criminal liability can be fastened upon petitioners no. 2 and 3. Mr. Jain, the learned advocate for respondent no.1 has in fairness stated that respondent no.1 will delete petitioners no. 2 and 3 from the proceedings. In view of the statement, the complaint filed by respondent no.1 shall proceed against petitioner no.1 and the other accused persons and not against petitioners no. 2 and 3. The statement made by Mr. Jain is accepted and the petition is disposed off.

(Smt. R.P. SondurBaldota, J.)