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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1307 OF 2016

Lahu Dagu Chaudhari and anr	 Applicants
V/s.	
The State of Maharashtra	 Respondent

Mr. Rameshwar N. Gite, for the Applicant.
Mr. Deepak Thakre, APP for the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 2nd AUGUST, 2016.

P.C. :

1. Heard the learned counsel for applicants and the learned APP.
2. It is argued that the dispute between the parties is predominantly of civil character and there is no allegation of criminality touching to it. It is further argued that as the crime in question is based on documentary evidence, custodial interrogation of applicants is not warranted.
3. My attention is drawn to the private criminal complaint lodged by complainant Sachin Shankar Chaudhary and it is argued that the learned Magistrate had initially chosen to pass order under Section 202 of

Code of Criminal Procedure, but later on, he passed order under Section 156(3) of Code of Criminal Procedure.

4. Perused the Private Criminal Complaint lodged by Sachin Shankar Jadhav. It is averred therein that Gram Panchayat Property No.90 bearing City Survey No.168, came to the share of father of complainant Sachin Choudhary in the partition. Accordingly the name of father of complainant came to be mutated in the record of Gram Panchayat. The complainant further averred that in the record of City Survey, the name of his grand father and father of applicant Lahu Chaudhary, continued. Taking advantage of this unchanged revenue record, according to complainant, after the death of father of complainant, applicant accused No.1 Lahu Chaudhary and applicant No.2 Kiran Chaudhari, conspired and tampered the record of the Gram Panchayat. It is averred that applicant Lahu Chaudhary has himself entered his name alongwith name of co-accused in the record of the Gram Panchayat in his own hand-writing. It is further averred that posing themselves as owners of the property in question, the said property was transferred by executing sale deed by accused persons.

5. Perused the order of the learned Additional Sessions Judge, Niphad. It appears that the learned Additional Sessions Judge has perused case papers as well as record of Gram Panchayat, Dixi. It is

seen that the learned Additional Sessions Judge had perused statement of Gram Sevak and other relevant record and prima facie found that the name of the complainant and his mother as well as his brother have been recorded as owners of property No.90. However, both applicants/accused were found to have executed sale deed in respect of that property in favour of co-accused Nankishor Sonawane. The learned Additional Sessions Judge found that the applicants have made alterations in the copy of from No.VIII of revenue record of village in respect of property No.90.

6. It is seen that the learned J.M.F.C. after scrutinizing complaint, had passed order under Section 156 (3), directing investigation in the matter and that is how crime in question is registered. As to the submission of the learned counsel for applicants that the learned Magistrate had initially chosen to pass order under Section 202 of Code of Criminal Procedure, but later on he passed order under Section 156(3) of Code of Criminal Procedure, it needs to mention that the question of propriety in passing orders by the JMFC, cannot gone into in this proceeding. The applicants have to take recourse to appropriate proceedings if they are aggrieved by the orders of the learned Magistrate. It is well settled that criminal law can be set in motion by anybody.

7. The averments in the F.I.R. prima facie shows commission of

the offence punishable under Section 406, 417, 420, 465, 468, 471 r/w 34 of the Indian Penal Code. It cannot be said that the alleged offence is not based on the documentary evidence and custodial interrogation is not warranted. On the contrary, the Investigator will have to go to the root conspiracy in order to investigate the crime in question in proper perspective. The offence is serious and as such no case for anticipatory bail is made out. The application is rejected.

[A. M. BADAR, J.]