

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL REVISION APPLICATION NO.51 OF 2015

Vilas Ramchandra Ladikar ::
APPLICNAT

.. Versus ..

The State of Maharashtra
and three others. :: **NON-APPLICANT**

Shri N. D. Thombre, Advocate for the applicant.

Shri C. A. Lokhande, A.P.P. for the State.

Shri R. R. Shrivastava, Advocate for respondent Nos. 2 and 3.

Shri V.V. Tiwari, Advocate for respondent No.4.

CORAM : S. B. SHUKRE, J.
DATED : 22 AUGUST, 2016.

P. C. :

1. Heard.
2. Learned Counsel for the applicant submits that in the complaint filed against respondents No. 2 to 4 specific allegations are made, which bring out prima facie case for the offence alleged against them. He submits that, however, these allegations and contentions have not been properly considered by the learned Sessions Judge and the result is of passing of a perverse and illegal order, which has been impugned in this revision application.
3. According to the learned Counsel for respondents No. 2 and

3 and also for respondent No.4, the impugned order is legal and correct and does not require any interference. Learned A.P.P. for the State submits that appropriate order in the interest of justice be passed.

4. On going through the impugned order, I find that neither any illegality nor incorrectness nor impropriety could be seen therein. The learned Sessions Judge has taken a view that basic ingredients of the offence punishable under Section 420 of the Indian Penal Code pertaining to deception and inducement are absent in this case and, therefore, no prima-facie case for that offence is made out. The learned Sessions Judge has also found that there is nothing on record by which, prima facie, it can be said that any false document with intention to cause damage or injury or to support any claim, title or cause any person to part with the property has been shown to be in existence and, therefore, even offences punishable under Sections 465, 467, 468, 489 and 471 of the Indian Penal Code have not been prima facie made out. The learned Sessions Judge has further found that the offence punishable under Section 458 is not prima facie made out for the reason that there has been no explanation whatsoever given in the complaint as to why the offence, which was allegedly committed in the year 2006, was tried to be made out in the year 2014. The learned Sessions Judge has further found that for the offence of defamation

punishable under Section 500 of the Indian Penal Code, the complaint had been filed after the expiry of limitation period of three years. These findings, upon perusal of the averments made in the complaint and also the verification statements, cannot be said to be perverse or illegal.

5. The allegation basically is that; accused No.1 i.e. respondent No.2 by making false representations and knowing them to be false, induced the complainant to execute an agreement for sale of his property and that but for those false representations, the applicant would not have executed the agreement in favour of respondent No.2. This allegation is sought to be substantiated by relying upon some hand-written portions appearing on page No.2 of the agreement in question. A copy of this agreement has been produced before this Court during the course of argument and it is taken on record and marked 'X' for identification. It is submitted by the learned Counsel for the applicant that the hand written portions have not been authenticated by respondent No.2 or even by the complainant by putting their signatures or initials in the spaces available for the purpose.

6. On perusal of the agreement in its entirety, I find that apart from hand-written portions, there are several portions in the agreement by which it is indicated that there was an agreement in

between the applicant and respondent No.2 regarding transfer of property belonging to the applicant. There is no dispute about the execution of the agreement as the signature of the applicant affixed to this document is admitted. So, the execution of this document is not in dispute and the dispute is only about what is written in the handwritten portions on page No.2 thereof. These handwritten portions relate to amount of consideration and so obviously the dispute would not go beyond what is agreed amount of consideration and what is not. The other terms and conditions contained in the agreement, however, prima facie, disclose that there was an agreement for transfer of the property. If such is the nature of the case, it is hard to believe that there were prima facie false representations made to the applicant which induced the applicant to execute the agreement for transfer of the property in favour of respondent No.2. So, I am of the view, the learned Sessions Judge has rightly found that there has been prima facie neither dishonest disposition of the property nor any inducement to agree to transfer the property dishonestly as contemplated under Section 420 of the Indian Penal Code. Similarly, there is nothing on record which would prima facie show that any document has been falsely created by respondent No.2.

7. As regards the view taken by the learned Sessions Judge on

the offences punishable under Sections 458 and 500 of the Indian Penal Code, nothing has been shown to me so as to enable me to hold that the opinion formed by the learned Sessions Judge is absolutely incorrect or against the settled principles of law. All these facts and circumstances would show that no prima facie case has been made out as against respondent No.2. So far as the respondents No. 3 and 4 are concerned, I must say, there are no such allegations made against them as would prima facie show that they were some way or the other party to what has been attributed to respondent No.2. Admittedly, they were only witnesses to the agreement in question. Therefore, even against them, it has to be said, no prima facie case has been made out.

In the result, this revision application cannot be admitted and it deserves to be rejected. It is rejected accordingly.

JUDGE

CERTIFICATE

“I certify that this Judgment uploaded is a true and correct copy of original signed Judgment.”

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