

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO. 752/2015.

Devidas Ramdas Thokare

-VERSUS-

The State of Maharashtra and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

CORAM : B. P. DHARMADHIKARI
& A.S. CHANDURKAR, JJ.

DATE : AUGUST 24, 2016.

Heard Shri S.V. Sirpurkar, learned Counsel
for the applicants, Mrs. K.S. Joshi, learned A.P.P. for
non-applicant nos.1 and 2 and Shri S.P. Baldota,
Power of Attorney holder for non-applicant no.3.

2. The applicants attempt to demonstrate that
dispute of essentially civil nature has been raised in the
police complaint filed about "Aapasnama" and
"Kararnama" dated 10.03.2013. Shri Sirpurkar,
learned counsel for the applicants submits that the
original agreement of sale dated 23.12.2011, is not in

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dispute. He further states that when a Civil Suit for specific performance came to be filed, grievance has been made in police complaint about this later document by way of an after thought. He states that non-applicant no.3 is a retired police officer and he is using his influence to see that the applicants do not succeed in their effort to obtain specific performance.

3. He submits that though possession is already handed over, another FIR raising grievance about possession is also filed.

4. He submits that all this has been after a suit for specific performance was filed and grievance therefore, should have been made in Civil Court and not in the police station.

5. Learned A.P.P. submits that earlier agreement dated 23.12.2011 appears to be a registered document, while the later document which is complained of as forged one by non-applicant no.3, is not registered. She submits that if signature of non-applicant no.3 upon it is found to be forged, an offence is made out/established. According to her, investigation is in progress and Civil Court has been moved for procuring original of the said agreement so

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as to verify the signatures.

6. The power of attorney holder for non-applicant no.3 adopts argument of learned A.P.P. He further adds that during pendency of this proceeding, again similar effort has been made and he therefore seeks dismissal of present application.

7. Non-applicant no.3 has complained that he has not signed said Aapasnama and Kararnama dated 10.03.2013. If this contention is found correct, an offence, as alleged, may be found to have been committed.

8. In this situation, we are not inclined to comment at this stage upon the rival contentions. As civil dispute is already pending, we find it convenient to keep it open.

9. The power of attorney holder for non-applicant no.3 has stated that non-applicant no.3 has only filed above complaint and he is about 85 years old and not in a position to move and has not used his office or influence in any way. He further states that if applicants cooperate, he has no objection to non-applicant nos. 1 and 2 properly investigating the complaint.

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10. We find that the applicant no.3 before this Court is an Advocate. Similarly applicant no.4 is Stamp Vendor. Applicant nos. 1 and 2 are plaintiffs in suit for specific performance. In this situation, we have no doubt in our mind that the applicants will definitely cooperate the non-applicant nos. 1 and 2 for proper investigation.

11. In respect of FIR containing grievance about possession / trespassing, non-applicant nos. 1 and 2 have already filed charge sheet before the Competent Court.

12. Hence, with directions to non-applicant nos. 1 and 2 to investigate into the matter in accordance with law, without undue harassment to the applicants in the matter, and keeping all rival contentions open as also with liberty to applicants to approach again, if any cause of action arise, we dispose of the present application. No costs.

JUDGE**JUDGE**

Rgd.

CERTIFICATE

I certify that this judgment/order uploaded is a true and correct copy of original signed judgment/order.

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Pvt. Sec.