

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

917 CRIMINAL APPLICATION NO. 1232 OF 2017

VISHWAS BUDHA PATIL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

Shri. Girish Rane, Advocate, for applicants.

Shri. R.V. Dasalkar, Additional Public Prosecutor, for respondents.

Coram: T.V. NALAWADE, J.

Date: 4 April 2017

ORDER:

1) The application is filed for the relief of anticipatory bail. Both this sides are heard. This Court has perused the papers of investigation.

2) The crime at CR No.18/2014 is registered in Amalner Police Station for offences punishable under sections 420, 409, 406, 467 etc. read with section 34 of the Indian Penal Code. The report is given by one Sushilabai Atmaram Patil, widow of real brother of applicant No.1 Vishwas. Her husband died many years

back. Applicant No.1 and the deceased Atmaram were owners of ancestral and joint family property. Allegation is made against Vishwas that he created false record of mortgage by presenting another woman in place of the complainant and false mortgage document was created. By creating such document in the year 2008 amount of Rs.1.65 lakh was taken as loan on two properties like Gat No.44/1 situated at Manjardi and Gat No.59 situated at Gadkhamb, Tahsil Amalner. It is the case of the complainant that she learnt about this act of accused No.1 Vishwas in the year 2013 and when she sent her relative to make inquiry with accused No.1 he gave evasive answers. It is her case that due to this conduct she realized that accused No.1 Vishwas wants to grab entire property and for that he has created said record.

3) There is allegation that accused No.3 Shobha was produced before the Sub Registrar by giving her name as Sushilabai Atmaram Patil. Shamkant, who is son of Vishwas, gave the identification. There is allegation against applicants Nilesh and Suresh that even when they knew that complainant Sushilabai was not there to

execute the document, they signed on the document as attesting witnesses.

4) Learned counsel for the applicants submitted that Sushilabai had also created some false record and she had sold some portion of Gat No.59 and in respect of that offence, charge-sheet is already filed against her. That circumstance cannot help the applicants in any way.

5) Learned counsel for the applicants submitted that suit is filed by sisters of Vishwas for declaration about the sale deed executed by Sushilabai in respect of some portion of Gat No.59 and Sushilabai has also filed suit for relief of partition and so it needs to be presumed that there is dispute of civil nature between the parties and the relief needs to be granted in favour of the applicants.

6) There is record showing that the suits of aforesaid nature are filed. The suit filed by Sushilabai subsequently shows that she is claiming share in Gat Nos.59, 173, 214 and 25 situated at Gadkhamb. She is claiming share in Gat Nos.138 and 136 situated at

Dahiwad. She is also claiming share in two house properties situated at Gadkhamb (Manjardi) and Gadkhamb.

7) The aforesaid circumstances show that there is allegation that applicant No.1 Vishwas is trying to grab the property and for that he created aforesaid record and he took loan also by creating false record and by impersonation. The learned counsel for the applicants submitted that the said loan was repaid subsequently. These circumstances cannot absolve the applicants of the criminal liability. Thorough investigation in such matter is necessary and so the relief cannot be given to the persons like the present applicants who are trying to grab the property of a widow. This Court holds that no relief can be granted in favour of the applicants. In the result, the application is rejected. Interim relief is vacated.

Sd/-
(T.V. NALAWADE, J.)