

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1284 OF 2017**

Ashok Tukaram Jadhav

..Petitioner

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. A. B. Kadam for the Applicant

Mr. K.V. Saste Addl P. P. for the Respondent State

**CORAM :R. M. SAVANT, &
SANDEEP K. SHINDE, JJ
DATE : 11th AUGUST, 2017**

P.C.

1 The above Criminal Writ Petition has been filed for quashing and setting aside the complaint being RCC No.838 of 2016 lodged with the JMFC, Cantonment, Pune. The offences alleged against the Petitioner are ones under Sections 465, 468, 471 and 120B of the Indian Penal Code.

2 The Petitioner was the owner of a plot of land bearing survey No.27 (part) Hissa No.7(part) which he had sold to the complainant who is the Respondent No.2 herein. However, the Petitioner had mortgaged the said property to the Central Bank of India for a over draft facility of Rs.3 crores under the Banks Trade Scheme. The Central Bank of India having come to know that the Petitioner had already sold the property to the Respondent No.2 lodged an FIR with the CBI-EOW, Mumbai bearing R. C. No.0682015E0009/2015 for offences under Section 420, 467, 468 and 471

read with 120(B) of the Indian Penal Code. It seems that pursuant to the FIR investigation was carried out of which charge sheet has been filed by the CBI, in the Special Court. The Respondent No.2 who is the purchaser of the property from the Petitioner on having come to know of the Petitioner's attempt to mortgage the property though sold to him, has filed the complaint resulting in the FIR bearing C. R. No.273 of 2016 with the Mundhwa Police Station for offences punishable under Sections 465, 468, 471 and 120(B) of the Indian Penal Code.

3 The gravamen of the allegations against the Petitioner is on account of the fact that the Petitioner was having knowledge of the fact that he has sold the property to the First Informant, he has ventured to execute a mortgage in favour of the Central Bank of India for the overdraft facility of Rs.3 crores. The relief sought in the above Petition is on the basis that since the FIR being R. C. No.0682015E0009/2015 has already been registered at the behest of the Deputy General Manager, Central Bank of India, the second FIR is not tenable. In so far as the first FIR is concerned, we are informed that the charge sheet has been filed by the CBI.

4 In our view, it is not possible to accept the said contention as the cause of action for filing the first FIR by the Bank was different than the cause for filing the second FIR by the Respondent No.2 who is the purchaser from

the Petitioner. We do not wish to make any observations on merits lest the case of the Petitioner is effected in the Trial Court. Hence no relief can be granted to the Petitioner, the above Criminal Writ Petition is accordingly dismissed.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]