

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 259 OF 2009

1. Laxmibai W/o Shriram Kadam,
Age 45 years, Occu: Agri,
R/o Kaleshwar, Tq. Hadgaon,
Dist. Nanded.
2. Shriram S/o Narayan Kadam,
Age 50 years, Occu: Agri,
R/o as above.
3. Sambhaji S/o Dattarao Jadhav,
Age 50 years, Occu: Agri,
R/o as above.
4. Bapurao S/o Gangaram Shinde,
Age 50 years, Occu: Agri,
R/o as above.

... APPLICANTS

VERSUS

1. The State of Maharashtra,
Through Police Station Hadgaon.
2. Rukhmini /o Uttamrao Jadhav,
Age 70 years, Occu: Agri,
R/o. Kaleshwar, Tq. Hadgaon,
Dist. Nanded.

... RESPONDENTS

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Mr. N. B. Jadhav, Advocate for Applicants.
Mr. M. M. Nerlikar, APP for Respondent No.1 / State.
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CORAM : **T. V. NALAWADE &
K. L. WADANE, JJ.**

DATE : 26th July, 2018.

JUDGMENT: (Per T. V. Nalawade, J.)

. The proceeding is filed under Section 482 of the Code of Criminal Procedure for relief of quashing of FIR No.21 of 2008, registered with Hadgaon Police Station, District Nanded, on the basis of directions given by the learned Judicial Magistrate First Class, Hadgaon in the proceeding bearing R.C.C. No.18 of 2008.

2 Both the sides are heard.

3 The complaint was filed by one Smt. Rukhminibai Jadhav. She has made allegations that she wanted to take loan of Rs.10,000/- from the present Applicants, who are her relatives and so she approached them. It is her contention that she wanted to give her land by way of mortgage for 10 years as security for loan. It is her contention that Applicant Nos.1 and 2 took her to Hadgaon where the transaction was to be written and registered and there it was represented to her that they were preparing document of mortgage

and her signatures were obtained on some documents and blank papers. It is her contention that after 10 years period, when she approached Applicants and she requested to return the possession by accepting the amount, the Applicants said that they had purchased the land from her under sale-deed dated 11th April, 1997. It is her contention that she realized in January 2008 that she was deceived and the document of sale was got executed by the Applicants. On the basis of these allegations, crime is registered for the offences punishable under Sections 420, 34 etc. of the Indian Penal Code. Some allegations of assault are also made by the Respondent, first informant.

4 It is not disputed that registered sale-deed is there in favour of Applicants. When the document was executed and registered in the year 1997, complaint came to be filed in the year 2008. The submissions made show that the first informant has filed suit for cancellation of the sale-deed and for further reliefs. This circumstance cannot be ignored as it will be upto the Civil Court to decide as to what was the nature of real transaction. At present, there is record like registered sale-deed and statements of some persons

including stamp vendor. In view of these circumstances, this Court holds that it will be abuse of process of law if the Applicants are directed to face trial for the aforesaid offences. In the result, the following order is passed:

ORDER

- I. The application is allowed.
- II. Relief is granted in terms of prayer clause (C).
- III. Rule is made absolute in those terms.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]

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