

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

CRIMINAL APPLICATION NO. 482 OF 2008

Ashok S/o. Madhavrao Patil,
Age – 59 years, Occu. Agril.,
R/o Sutarpur Galli, Paithan,
Tq. Paithan, District – Aurangabad.

... **APPLICANT**

VERSUS

- 1) The State of Maharashtra.
- 2) Kashinath S/o Baburao Bankar,
Age – 40 years, Occu. Business,
R/o. New Kawasan Ara, Paithan,
District – Aurangabad.

... **RESPONDENTS**

...
Mr. Arvind S. Deshmukh, Advocate for Applicant.
Mr. S. J. Salgare, 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 Crime No.24 of 2002, registered with Paithan Police Station, District Aurangabad, for the

offences punishable under Sections 420 and 468 of the Indian Penal Code. The submissions made show that even charge-sheet is filed for these offences.

2 Allegations are made against the present Applicant by one Kashinath Bankar that when as per the previous sanctioned plan, plot No.5 was sold to him by present Applicant, which was from Survey No.178, to cause loss to to him, behind his back in the year 1983, the present Applicant made a proposal of change of layout plan. It is contended that by supplying false information and by making false representation, a new layout plan was prepared and that way not only loss is caused to him, but the competent authority is deceived by the present Applicant and thereby offence is committed under aforesaid section.

3 The submissions made show that the Applicant is not disputing that in the year 1983, layout plan was changed by him. The only circumstance, which was argued for the Applicant, is delay caused in giving FIR. When the layout plan was changed in the year 1983, FIR was given on 26th March, 2002. In view of circumstance of filing of charge-sheet for the aforesaid offence, this delay cannot be

considered in the present matter. Relevant record is collected by the Police, which include copy of sale-deed executed in favour of first informant, which mentions the plot number. It appears that the entry of name of first informant was not taken in 7/12 extract and by misusing that circumstance, another layout was prepared. Record is collected to show that construction permission, which was granted, was re-considered and in view of aforesaid circumstances, permission was cancelled by the Additional Commissioner of local body, Aurangabad. Though it appears that the proceeding filed before the Deputy Director of Land Records by the first informant was dismissed, the aforesaid circumstances cannot be ignored. *Panchanama* of the spot was prepared by the Police and it is consistent with the allegations made by the first informant. In view of these circumstances, it cannot be said that false allegations are made against the Applicant.

4 One more circumstance was argued like pendency of Writ Petition No.2730 of 2007, which is pending before the Division Bench on Civil Side. Initially, the learned Single Judge of this Court had observed that it was desirable to wait till the decision of the civil writ

petition. In view of the aforesaid circumstances, this Court holds that there is no need to wait for the decision of the said civil writ petition.

In the result, the following order is passed:

ORDER

- I. The application is dismissed.
- II. Interim relief is vacated.
- III. Rule is discharged.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]

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