

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

CRIMINAL APPLICATION NO.453 OF 2018

Rukhmaji s/o Tanaji Sakhare Age 80 years, Occu: Agriculture R/o Tanaji Ngar, Taluka & Dist. Nanded	... Applicant (Orig. Accused)
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VERSUS

1. The State of Maharashtra
Through Vimantal Police Station,
Nanded, Dist. Nanded.

2. Laxmibai Dulbaji Sakhare
Age: 60 years, Occu: Household,
R/o Tanaji Nagar, Nanded
District Nanded

... Respondents

Mr. S. S. Gangakhedkar, Advocate for the applicant
Mr. S. B. Pulkundwar APP for respondent No.1-State.
Mr. S. V. Kurundkar, Advocate for respondent No.2.

CORAM	: T. V. NALAWADE AND K. L. WADANE, JJ.
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DATE:	: 25th June, 2018.
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JUDGMENT (Per K. L. Wadane,J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, the application is taken up for final disposal.

2. The application is filed under section 482 of the Code of Criminal procedure for quashing the first information report bearing Crime No.10/2018 lodged on 10.01.2018 with the Vimantal Police Station, Nanded for the offences punishable under sections 420, 467, 471 of the Indian Penal Code against the applicant.

3. Respondent No.2/original complainant- Laxmibai is wife of brother of the applicant. It is alleged by the complainant that there was joint family, comprising of her father-in-law Tanaji Bhujanga Sakhare, present applicant Rukhmaji, and her husband namely Dulabaji Sakhare.

It is stated that Tanaji Bhujanga Sakhare was the owner of ancestral land bearing Survey No. 11 situated at Asadullabad admeasuring 8 acres, out of which, 4 Acres land was sold. Tanaji Sakhare purchased another 10 acres land at village Hiwra, Taluka Vasmal, out which, 5 Acres land was entered in the name of husband of the complainant and 5 Acres land was entered in the name of the applicant. Husband of the complainant died in the year 2000 and her father-in-law Tanaji died in the year 2003.

4. It is alleged that land to the extent of 3 acres 19 R remained in Survey No.11 and the present applicant, without the knowledge and

consent of the complainant and her sons, sold it out to one Balaji with intention to cheat the complainant and garb the entire property owned and possessed by the joint family. It is further alleged that the complainant and her sons are having shares in the aforesaid land, which was disposed of by the applicant fraudulently by preparing false record. With these allegations offence as referred above came to be registered against the applicant.

5. Heard Mr. S. S. Gangakhedkar, learned counsel for the applicant, Mr. S. B. Pulkundwar learned APP for respondent No.1-State and Mr. S. V. Kurundkar, learned counsel for respondent No.2 and also perused the record.

6. On perusal of the record, it appears that the applicant sold out some part of Survey No.11 in favour of one Balaji Kale by way of executing registered sale deed. On perusal of Mutation Entry No.1 in respect of land Survey No.11, it appears that after the death of Tanaji Sakhare on 03.06.2002, names of the legal representatives of Tanaji were recorded including the name of the applicant and sons of the complainant namely Govind, Uddhav, Shivaji and daughter Rukhmabai. On perusal of 7/12 extract in respect of Gat No.11, it appears that there

is reference of Mutation Entry No.1. However, name of the applicant is only appearing in the 7/12 extract and names of other legal heirs of Tanaji, i.e. complainant and her sons Govind, Uddhav, Shivaji and daughter Rukhmabai are recorded in Other Rights column.

7. Prima facie, it appears that as the name of the applicant is only recorded in the ownership column of 7/12 extract in respect of Gat No.11, the applicant sold out the said property in favour of Balaji Kale. In fact, it appears that while recording the entry in the 7/12 extract, names of other legal heirs i.e. Govind, Uddhav, Shivaji and daughter Rukhmabai, were conveniently ignored and not shown in the column of ownership being legal heirs of Tanaji Sakhare. Thus, prima facie, it is seen that creation of false record i.e. 7/12 extract of Gat No.11 was with an intent to garb the share of the complainant and her sons, legal representatives of deceased Dulbaji Sakhare.

8. The aforesaid observations are made prima facie and they would not come in the way while deciding the Regular Civil Suit No.219/2016 filed by Shivaji and Udhav Dulbaji Sakhare, which is pending before the Civil Court at Nanded.

9. In view of the above, looking to the contents of the first

information report and other documents as referred above, prima facie, it is seen that there is sufficient evidence against the applicant to proceed further with the criminal case. The allegations in the first information report cannot be said to be false and groundless. Hence there is no substance in the application. Criminal application is rejected.

10. Rule is discharged.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC