

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

CRIMINAL APPLICATIO NO. 598 OF 2018

1. Swati W/o Chandrakant Chavan,
Age-40 years, Occ - household,
2. Chandrakant S/o Shankar Chavan,
Age-43 years, Occ-Business,
Both R/o Snehniketan Colony,
Malegaon Road, Nanded,
Tq & Dist. Nanded.
3. Sanju S/o Parshuram Gaikwad,
Age-36 years, Occ- Business,
R/o. Bokkalguda, Adilabad,
Telgangana State.
4. Sandeep S/o Subhashrao Ingle,
Age- 26 years, Occ-Business,
R/o. Somesh Colony, Nanded,
Tq. & Dist. Nanded.

...APPLICANTS

V E R S U S

1. The State of Maharashtra,
Through Police Station, Bhagya Nagar,
Through its In-charge Police Inspector,
Nanded, Tq & Dist. Nanded.
2. Amit S/o Chandrakant Ankulwar,
Age : 25 yrs, Occ.:- Business,
R/o : Tulshiram Nagar, Malegaon Road,
Nanded, Tq & Dist. Nanded.

...RESPONDENTS

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Mr. Ganesh A. Gadhe, Advocate for applicants
Mr. R.V. Dasalkar, APP for respondent No. 1.
Mr. S.R. Zambare, Advocate for respondent No. 2 (appointed)

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**CORAM : T.V. NALAWADE &
SMT VIBHA KANKANWADI, JJ.**

DATED : 24th AUGUST, 2018.

ORAL JUDGMENT :- (PER : T.V. NALAWADE, J.)

1. Rule. Rule made returnable forthwith. Heard finally, with consent of learned counsel for parties at the stage of admission itself.
2. Present proceeding is filed under section 482 of the Criminal Procedure Code (for short "Cr.P.C.") for relief of quashing and setting aside the First Information Report (for short "FIR") bearing No. 18 of 2017 registered with Bhagyanagar Police Station Nanded for the offence punishable under sections 120(B), 420, 467, 468, 471, 182, 452, 323 read with section 34 of the Indian Penal Code, 1860 (for short "IPC").
3. Both sides are heard. Some record was produced by both the parties.
4. Submissions made and record show that the disputed property was purchased by Swati Chandrakant Chavan on 12-01-2005 from one Ramesh Laxman Pasalwad. A copy of the sale deed shows the photograph of Swati, who had purchased the property. Submission made shows that on 26-10-2009 the sale deed was executed in favour of Vijay Dasrao Deshmukh of same property and the copy of sale deed shows that different lady was produced before the Sub-Registrar for execution of registered sale deed. When the owner, who had purchased the property in

the year 2005 came to know about execution of such sale deed, she made complaint to the Police on 04-03-2010. The submission made and record show that Vijay Deshmukh, who was shown as purchaser of the property in the sale-deed dated 26-10-2009 gave in writing before the Police that he was not claiming any right or interest in the property shown to be purchased under said sale deed and he would take necessary steps to get everything cancelled. There is some correspondence dated 18-06-2013 showing that the owner made one more complaint against Vijay Deshmukh, as he tried to collect money by making transaction in respect of the disputed property. Then steps were taken to remove the name of Vijay Deshmukh from the revenue record, which was entered on the basis of sale-deed in the year 2009. Affidavit of Vijay Deshmukh was filed in that proceeding and after giving public notice, proceeding was allowed and mutation entry which was made in the past in favour of Vijay Deshmukh was cancelled on 28-02-2015.

5. Respondent No. 2 filed private complaint against all applicants of present proceeding for aforesaid offences and prayed for referring the matter to Police for investigation. Such order was made and then crime bearing No. 18 of 2017 came to be registered. In the complaint, respondent No. 2 has made allegation that Swati had joined the hands with Sanjiv Gaikwad and Sandip Ingale and they had created false record of consent

of Vijay Deshmukh and on that basis mutation entry, which was already taken, was cancelled. The allegations are made that false record was created against Vijay Deshmukh. It is the contention of respondent No. 2 that agreement was executed in his favour by Vijay Deshmukh to sell the suit property and he had filed Regular Civil Suit No. 143 of 2014 against Vijay Deshmukh, Swati Chavan and other applicants of present matter. Admittedly, Vijay Deshmukh is not available and the lady, who was shown to have executed sale deed in 2009 is also not traceable. In view of aforesaid circumstances, it cannot be said that any false record was prepared by applicants No. 3 and 4, who are shown as associates of Swati, who is owner of the disputed property. In any case no wrongful gain is made as Swati was owner of the property. The competent authority has cancelled the mutation entry, which was sanctioned in favour of Vijay Deshmukh. It can be said that only to pressurize the owner and to see that he gets back amount, private complaint was filed. Due to these circumstances, this Court holds that it is not desirable to ask Sanjiv Gaikwad and Sandip Ingale to face trial for the aforesaid offences.

6. In the result, application to the extent of applicants No. 3 and 4 is allowed and accordingly relief is granted in terms of prayer clause "A". The proceeding to the extent of applicants No. 1 and 2 is already withdrawn under order dated 03-04-2018.

Rule is made absolute in above terms.

7. The fees payable to the appointed counsel on behalf of respondent No. 2 is quantified at Rs. 3000/- and the same shall be paid by the High Court Legal Services Sub-Committee, Aurangabad.

(SMT. VIBHA KANKANWADI, J.)

(T.V. NALAWADE, J.)

MTK.