

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 408 OF 2013

1. Shyamsundar S/o Dattatray Bharde,
Age: 74 years, Occu: Agriculture &
Chairman of Coronation Hall Fund
Committee Shevgaon, Tq. Shevgaon,
District Ahmednagar.
 2. Ramesh S/o Dattatray Bharde,
Age: 72 years, Occu: Agriculture,
& Trustee of Coronation Hall Fund
Committee Shevgaon, Tq. Shevgaon,
District Ahmednagar.
 3. Shailesh S/o Shyamsundar Bharde,
Age: 35 years, Occu: Advocate/
Coronation Hall Fund Committee
Shevgaon, Tq. Shevgaon,
District Ahmednagar
 4. Harish S/o Shyamsundar Bharde,
Age: 33 years, Occu: Agriculturist,
R/o Shevgaon, Tq. Shevgaon,
District Ahmednagar
 5. Prabhakar S/o Nagnath Bharde,
Age: 83 years, Occu: Advocate/trustee,
R/o Shevgaon, Tq. Shevgaon,
District Ahmednagar
 6. Prabhakar S/o Shankar Kulkarni,
Age: 78 years, Occu: Agriculture/trustee,
R/o Shevgaon, Tq. Shevgaon,
District Ahmednagar
- ...Petitioners.**

Versus

1. The State of Maharashtra
Through its Police Station Shevgaon,
Tq. Shevgaon, Dist. Ahmednagar.
2. Venimadhav S/o Raghunath Bharde,
Age: 46 years, Occu: Service, R/o

Assistant Registrar, Co-operative Sanstha,
Shevgaon, Tq. Shevgaon,
District Ahmednagar
Dist. Ahmednagar.

...Respondents.

Mr. K.M.Nagarkar, Advocate for Petitioners.

Mr. A.A. Jagatkar, APP for Respondent 1/State.

Mr. D.G. Nagode, Advocate for Respondent No.2.

**CORAM :T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.
DATED : 29/10/2018.**

JUDGMENT : [PER T.V. NALAWADE, J.]

1) The petition is filed for relief of quashing of F.I.R. No. 31/2013 registered with Shevgaon Police Station for offences punishable under sections 410, 467, 468, 471, 120-B etc. of Indian Penal Code. Both the sides are heard.

2) The crime is registered on the basis of direction given by the learned Judicial Magistrate, First Class, Shevgaon in private complaint filed by respondent No. 2 Venimadhav Bharde. He has made allegations against the present petitioners that they had created false record for registration of trust in respect of coronation hall which is present on Survey No. 2A of Shevgaon. The hall was given No. 708 in Village Panchayat and it was having area of 111.6 Sq. Mtrs. The total area of the open space is 0.5 R.

3) It is contended that in the title of properties of the trust, the aforesaid property is shown as the trust property and they have created record to show that they are the owners of the land. It is contended that the land was given by Government and one Ragho Bharde was appointed as trustee of the property and not only the petitioners, but first informant, complainant are also successors of Ragho Bharde.

4) It is the contention of the complainant that to make personal gain, the applicants demolished the structure of coronation hall and they are making the construction of commercial complex on this space. It is contended that as per the information collected by the complainant till the date of complaint, from 17 persons the petitioners had collected money by making them promise to give them shop in the new construction. It is contended that by using the aforesaid modus operandi, the petitioners have committed breach of trust and they have deceived some persons also by giving false promise to them.

5) In view of nature of allegations, a query was made to the learned counsel for petitioners and he was asked as to whether the petitioners admit that it is a trust property. The learned counsel admitted that it is a trust property. Then time was given to the

learned counsel to show the record of permission obtained from office of Charity Commissioner for pulling down the coronation hall and for the construction of commercial complex developed by the trust property. The learned counsel submitted that permission of Local Body was obtained. This submission cannot help the petitioners as the property is trust property and for development and disposal of the property, permission of the office of Charity Commissioner is must.

6) The papers of investigation contain record like report prepared as per the directions given by Assistant Charity Commissioner and it shows that the petitioners did not cooperate in the enquiry and the enquiry revealed that the hall was pulled down. Some photographs are produced showing that construction of new building was started and some work of centering is already done. The photographs are produced by the learned counsel for the petitioners. There are statements of some persons from whom the amount was collected by the petitioners by giving promise that they would get shop premises in the commercial complex. The documents executed in their favour were even notarized.

7) For collecting money by the trustees, permission is required to be taken from the office of Charity Commissioner. No

such permission was obtained. The aforesaid activities of the petitioners were illegal and they amount offence not only under the Trust Act, but also under IPC. It cannot be said that the petitioners have not committed any offence. There is more than sufficient material to show that their activities are illegal. In the result, the petition stands dismissed. Interim relief, if any, is vacated. Rule is discharged.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

ssc/