

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

CRIMINAL APPLICATION NO. 3203 OF 2008
WITH
CRIMINAL APPLICATION NO. 271 OF 2017

1. Santosh Devidas Mahajan
Age 36 years, Occu. Agri.,

2. Sau. Pushpa Devidas Mahajan,
Age 56 years, Occu. HH,

Both R/o. Degloor, Dist. Nanded.

**....Petitioners/ Ori.
Accused.**

Versus

1. Siddhi Iftekhar Siddi Ahmad,
Age 44 years, Occu. Business,
R/o. Degloor, Dist. Nanded.

2. The State of Maharashtra,
Through Police Station,
Degloor, Dist. Nanded.

**....Respondents/R-
1/Ori. Complainant**

Mr. Vivek Bhavthankar, Advocate for applicants.

Mr. G.A. Kulkarni h/f. Mr. Rajendra S. Deshmukh, Advocate for
respondent No. 1.

Mrs. P.V. Diggikar, APP for respondent No. 2/State.

**CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.**

DATED : JULY 17, 2018.

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

1) The proceeding is filed under section 482 of Criminal
Procedure Code for relief of quashing of F.I.R. No. 138/2008
registered in Degloor Police Station for the offences punishable

under sections 420, 468 etc. of Indian Penal Code. Both the sides are heard.

2) The petitioners are owners of land Gat No. 26 (part), 44 and 45 (part), having area of 2 H. 40 R. The first informant, respondent No. 1 is the owner of land Gat No. 43/1 which is adjacent to the aforesaid lands of the applicants and the land of the first informant is situated towards eastern side. The present applicants had applied for permission to use the aforesaid lands for non agricultural use and they had prepared development plan, lay out plan of these lands. This proposed lay out plan was submitted to Municipal Council, Degloor. On eastern side of developed plots one Panand (पाणंद) was shown and an attempt was made to show that road was available already on eastern side.

3) The complaint was made by the first informant and he brought to the notice of the authority, the Chief Officer aforesaid circumstances. The Assistant Director of Town Planning considered the objections and gave opinion that it was desirable to cancel the development plan sanctioned in favour of the applicants. After giving hearing the previous sanction was cancelled.

4) The F.I.R. came to be given on 19.8.2008 and aforesaid allegations were made by the respondent, first informant in the F.I.R. against the present applicants. It was submitted for the applicants that after cancellation of the sanctioned plan, new plan was submitted and new plan is approved by the authority. It was submitted that as the old plan is not used, no offence is committed.

5) The aforesaid submissions made for the applicants cannot be accepted. Admittedly, in the revenue map, no road was shown in existence on the eastern side of the land which was to be developed. Adjacent to the lands of the applicants, there was land of the first informant. By showing the existence of road, the applicants, owners would have used more portion of the land for plots. Thus, the false record was created and purpose behind the creation of record was to make gain. That would have certainly caused loss to the first informant. Whether the authority like Chief Officer or Town Planning Officers were deceived by the applicants or not needs to be ascertained by the investigating agency. It can be said that it was necessary for Chief Officer and Town Planning Officer to see revenue map before giving sanction to lay out plan. It can be said that they did not take care to see the revenue map and due to that, the lay out plan showing existence of Panand on eastern side was sanctioned. It cannot be said that no offence is committed by the

applicants. False record was created and only due to the diligence of the first informant, the lay out plan was cancelled. In the result, the proceeding stands dismissed. Interim relief is vacated. Rule stands discharged. Other Criminal Application filed by the State is also disposed of.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]

ssc/