

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

**942 CRIMINAL APPLICATION NO.1342 OF 2007
WITH
CRIMINAL WRIT PETITION NO.278 of 2007
WITH
CRIMINAL APPLICATION NO.3597 OF 2015**

Pravinchandrao Jinabhai Patel,
Age: 62 years, Occ.: Business,
R/o.: Jiha Peth, Jalgaon.

Applicant

Versus

- 1) The State of Maharashtra.
- 2) Anil s/o Jinabhai Patel – Dead
Through his L.Rs.:
- 2-A) Mrs. Geetaben Anil Patel,
Age: 62 years, Occ. Household,
- 2-B) Mr. Darshan Anilkumar Patel,
Age: 45 years, Occ. Business,
- 2-C) Mr. Chetan Anilkumar Patel,
Age: 43 years, Occ. Business,
- 2-D) Mrs. Vikram Anil Patel,
Age: 40 years, Occ. Business,
All R/o.: 180/1 "Smruti",
Gujrati Galli, Jilhha Peth,
Jalgaon, Tq. & Dist. Jalgaon.

Respondents

Mr. M.S. Kulkarni, h/f Mr.A.S. Bajaj, learned
Counsel for the Applicant

Mr. R.V. Dasalkar, learned APP for respondent
No. 1/State

None present for respondent No.2-A to 2-D

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

DATE : 20th June, 2018

JUDGMENT (PER : K.L. WADANE, J.)

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

2. The applicant has challenged the First Information Report on the basis of which the offence punishable under Sections 420 and 468 of the Indian Penal Code is registered against the applicant and others.

3. Respondent No.2 lodged the complaint to the police station, alleging that the complainant and the applicant were doing the business of productions of cement and plastic jointly till the year 1975. They are also partners in other businesses and due to differences between the complainant and the applicant, they were doing their business separately since the year 1996.

4. To resolve the dispute between the parties, initially, the Arbitrator was appointed, however, it was cancelled on 02.07.1996. Three

Arbitrators were appointed on 02.11.1996. They were also cancelled and 3rd Arbitrator was appointed on 28.02.2005.

5. It is the main allegation of the complainant that the present applicant has produced on record a false and fabricated Arbitration Award dated 07.07.1996, which was prepared anti-dated on 11.08.2005. The copy of the same was produced on record in the civil proceeding between the parties before the Civil Court. So, it is the allegations of the complainant that the applicant with the help of other persons has prepared a false and bogus Arbitration Award. On the basis of the information given by the respondent No.2, offence, as referred-above came to be registered.

6. Heard, Mr. Kulkarni, the learned Counsel h/f Mr.Bajaj, the learned Counsel for the applicant and Mr. R.V. Dasalkar, the learned APP for respondent No.1/State. None present for the respondent Nos.2-A to 2-D.

7. Mr.Kulkarni, the learned counsel for the applicant submits that the award dated 07.07.1996 was under challenge in Misc.Civil Appln. No.202 of 2005, in which the learned District Judge, Jalgaon has rejected the plea to dismiss the application for setting aside the Award on the ground that, it was barred by limitation. The applicant preferred Writ Petition No.4669 of 2011, wherein, it is observed by this Court that the application of the respondent to challenge the Award is barred by limitation. That order was assailed by respondent No.2 before the Hon'ble Supreme Court by way of filing S.L.P.and the Hon'ble Supreme Court confirmed finding of this Court by observing that the Application under Section 34 of the Act filed by Anilkumar Patel (the Respondent No.1), was barred by limitation.

8. In view of the above, it appears from record that the Hon'ble Apex Court has observed that the Application filed by the Respondent No.2 for setting aside the award dated 07.07.1996 was barred by limitation. In view of the above, now

the legality and validity of the Award dated 07.07.1996 cannot be questioned in any Court, more particularly, there is no evidence on record to show that the Award dated 07.07.1996 is false and fabricated document.

9. In view of the above, following order is passed.

ORDER

- (i) The application is allowed and the relief is granted in terms of prayer Clause "A".
- (ii) The Criminal Writ Petition No.278 of 2009 with Criminal Application No.3597 of 2015 are disposed of accordingly.
- (iii) Rule is made absolute in above terms.

[K.L. WADANE]
JUDGE

[T.V. NALAWADE]
JUDGE