

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

CRIMINAL WRIT PETITION NO. 923 OF 2018

- 1] Madhav Sitaram Ranmalkar
Age 72 years, Occ. Business,
R/o H. No. 11/15, Near Sawata
Lodge, Poonam Moti Nagar,
Market Yard, Ahmednagar.
- 2] Baliram Kishan Nagre
Age 40 years, Occu. Agriculture,
Jamkhed Road, Ahmednagar
At Present, Poonam Moti Nagar,
Market Yard, Ahmednagar.

...PETITIONERS.

Versus

1. The State of Maharashtra,
Through it's Police Inspector,
Bhingar Camp Police Station,
Ahmednagar, District Ahmednagar.
2. Arvindkumar Kantaprasad Singh
Age 64 years, Occu. Retired,
R/o Plot No. 44, General Aurn Vaidhaya
Coloney, J K Road, Behind Damaniya
Banglow, Ahmednagar.

...RESPONDENTS.

Mr. N.L. Choudhari, Advocate for petitioners.

Mr. A.A. Jagtkar, APP for respondent No.1/State.

Mr. A.A. Deshmukh, Advocate for Respondent No.2.

**CORAM :T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.
DATED : 20/12/2018.**

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

- 1) Rule. Rule made returnable forthwith. Heard both the sides for final disposal.
- 2) The proceeding is filed for relief of quashing and setting

aside F.I.R. No. 137/2018 registered with Bhingar Camp Police Station, Ahmednagar, District Ahmednagar for the offences punishable under sections 420, 406, 34 etc. of Indian Penal Code.

3) The crime is registered on the basis of report given by respondent No. 2, first informant. He has made allegations that in the year 2001, the applicants had flouted scheme of development and selling the plots and he had booked two plots which were from Survey No. 38. It is contended that he had paid the amount of Rs.63,500/- and the remaining amount of Rs.6,500/- was to be given when the plots were transferred in his name. He has made allegations that in the year 2001 as per the intimation given to him, he remained present in the office of Sub-Registrar, but the plots were not transferred and no document was executed in his favour. It is contended that subsequently under one or other pretext the applicants avoided to transfer the plot. It is contended that in the year 2016, he noticed that the plots which were booked by him were sold by the applicants and third party had started making construction over those plots. It is contended that by taking such step applicants have deceived him. It is contended that as the prices of the plots increased and the price was Rs.10 lakh per Gunta and the cost of the plots booked by him became Rs.20 lakh, he was deceived.

4) This Court has carefully gone through the record. Query was made and the learned counsel for first informant was asked as to whether there is any record even like simple receipt with the first informant to show that he had paid Rs.63,500/-. The learned counsel submitted that there was no such record and due to trust, such record was not created. The statements of some witnesses including Sarpanch show that he had heard something about the transaction, but he had no personal knowledge.

5) The so called oral transaction took place in the year 2001 and the F.I.R. was given in the year 2018. In view of these circumstances, this Court holds that it is nothing, but pressure tactics and the possibility that there was no such transaction as contended by the applicants, is there. It will be abuse of process of law if the applicants are directed to face the trial if case is filed against them. So, the following order.

ORDER

- (I) The petition is allowed.
- (II) Relief is granted in terms of prayer clause 'B'.
- (III) Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

ssc/