

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

CRIMINAL APPLICATION NO. 4104 OF 2007

1. Smt. Madhubala Lalitkumar Jain
(Golecha), Age 46 years,
Occu. Household, R/o. IInd Floor,
Sumnani building, Datta Mandir
road, Chopda, Tal. & Dist. Jalgaon.
2. Dr. Nirmal Anandraj Tatiya,
Age 47 years, Occu. Business,
R/o. Bazarpeth, Chopda,
Tal & Dist. Jalgaon.
3. Shri. Sushil Sohanraj Tatiya,
Age 40 years, Occu. Business,
R/o. Bazarpeth, Chopda,
Ta. & Dist. Jalgaon.

....Petitioners.

Vs.

1. The State of Maharashtra,
The Secretary, Home Department,
Mantralaya, MUMBAI.
2. The Superintendent of Police,
Jalgaon, Tal. & Dist. Jalgaon.
3. Mr. Shyam s/o. Devidas Sonar,
Age 35 years, Occu. Business,
R/o. Akila Jewellers, Bazar Peth,
Chopda, Tal. & Dist. Jalgaon.

....Respondents.

Mr. R.R. Sancheti h/f. Mr. R.R. Mantri, Advocate for applicants.

Mr. S.J. Salgare, APP for respondent Nos. 1 and 2.

Mr. S.S. Dambe, Advocate for respondent No. 3.

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

DATED : July 5, 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. 53/2007 registered with Chopada City Police Station, District Jalgaon for the offences punishable under sections 468, 420, 464, 34 etc. of Indian Penal Code. The learned counsel for applicants submitted that the applicants are not in touch with him and even when he has written to them, they have not contacted him and so, he may be discharged. He cannot be discharged on such communication. The communication produced by the learned counsel for the applicants is taken on record which is along with copy of the postal receipts. The matter is pending since the year 2007 and due to interim relief granted by this Court police could not make further investigation of the matter. The interim relief was granted on 5.3.2008. The learned APP submitted that even chargesheet came to be filed on 29.12.2018 bearing R.C.C. No. 15/2018. The learned APP submitted that police could not collect disputed document as document is shown to be filed in Civil Court. That record is available.

2) In F.I.R. allegations are made against the present

applicants that they created forged document of agreement of sale in respect of second floor of the building of complainant situated at C.T.S. No. 2443 to grab the property. It is the case of first informant, complainant that he realised that such record was falsely created when notice of a suit filed by the present applicant No. 1 was served on him. It is contended by the first informant that no consideration is received from present applicant No. 1 and he has not signed on the document produced in civil Court.

3) The suit was filed on 19.5.2007 during vacation and in the suit, the relief of declaration is claimed that plaintiff is in possession under the agreement. No relief of specific performance of so called agreement is claimed. Further, the reliefs are claimed like giving of direction to MSEB to give connection of electricity and giving of direction to Local Body to give connection of water supply.

4) In the written statement, the aforesaid contentions are denied by the first informant and F.I.R. was filed prior to filing of written statement. There is nothing on the record to show that even interim relief was granted in favour of present

applicant No. 1, the main accused. The papers of investigation show that statements of stamp vendor is recorded and it shows that one lady had purchased the stamp on which the agreement is shown to be written. There are statements of witnesses in support of the allegations made against the applicants. Applicant No. 1 is the party in whose favour the document is shown to be executed and applicant Nos. 2 and 3 are shown as witnesses on that document. It can be said that police could have sent the disputed document along with the specimen signature to ascertain the truth. But there was also interim relief given by this Court. Such things can be done at later stage also. It cannot be said that there is no material at all and the case is false and the allegations are false. In the result, the application is dismissed. Interim relief is vacated. Rule is discharged.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]

ssc/