

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

CRIMINAL APPLICATION NO. 4223 OF 2011

Deepak s/o. Manikrao Deshpande,
Age 45 years, Occu. Service,
R/o. Shivajinagar, Pathri, Tq. Pathri,
Dist. Parbhani.

... **APPLICANT**

VERSUS

1. The State of Maharashtra,
Through Police Station, Pathri,
Tq. Pathri, Dist. Parbhani.
- 2 Babasaheb s/o Janardhan Ikhe,
Age 36 years, Occu. Service,
R/o. Office of Grampanchayat,
Mauje Renapur, Tq. Pathri,
Dist. Parbhani.

... **RESPONDENTS**

...
Mr. Sumant S. Kulkarni, Advocate for Applicant.
Mr. S. J. Salgare, APP for Respondent No.1 / State.

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

DATE : 26th July, 2018.

JUDGMENT: (Per T. V. Nalawade, J.)

. The proceeding is filed under Section 482 of the Code of
Criminal Procedure for relief of quashing of FIR No.156 of 2011,

registered with Pathri Police Station, Tahsil Pathri, District Parbhani, for the offences punishable under Sections 420, 468 and 34 of the Indian Penal Code.

2 Both the sides are heard.

3 The present Applicant was working as Sub-Registrar in the office of Registrar created under the provisions of Registration Act. Allegations are made in FIR given by Respondent against the present Applicant and two other persons that on 18th July, 2011, present Applicant helped the vendor of the house property No.667 situated at Renapur, Tahsil Pathri to transfer and register the house property in favour of third party when the vendor was not owner of the said property. It is the contention of the first informant that on 18th July, 2011, he had given objection to the present Applicant in respect of registration, but the said objection was not considered. It was brought to the notice of this Court by the learned APP that on that day even the Gramsevak had made the order to the effect that assessment list issued in favour of main accused Madan Kulkarni, was issued due to oversight and so that mutation, assessment stood cancelled. It was submitted that though such record was created by

the Gramsevak on 18th July, 2011, the record was not made available to the Sub-Registrar, Applicant prior to the date of registration.

4 The learned counsel for Applicant drew the attention of this Court to the powers and duty of the Sub-Registrar given in Registration Act. The provisions show that some documents are compulsorily registrable and if there is a record like assessment list in respect of house property situated in the village and when no city survey of that area is done, Sub-Registrar cannot take objection in registration of the sale-deed. Admittedly, such assessment record was created by the Gramsevak though may be due to mistake. Further, the assessment record is prepared only for the purpose of collection of taxes of village Panchayat and it cannot transfer the title. If the aforesaid Madan Kulkarni was not owner of the property on the basis of record, which he had produced before the Gramsevak, then no loss is caused by the said document to the first informant and further it cannot be said that Sub-Registrar had joined hands with the vendor. Basically, it was the mistake of the Gramsevak and for that, present Applicant cannot be blamed. In view of these circumstances, this Court holds that it will be abuse of process of law, if the Applicant

is made to face the trial for the aforesaid offences. In the result, the following order is passed:

ORDER

- I. The application is allowed.
- II. Relief is granted in terms of prayer clause (C) and also the case filed as against present Applicant bearing R.C.C. No.60 of 2013, pending in the Court of Judicial Magistrate First Class, Pathri, also stands quashed and set aside.
- III. Rule is made absolute in those terms.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]

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