

1. Parmeshwar s/o Chimnaji Thalange
Age: 57 Occu : Service Talathi, Talathi
Sajja, Karala Tq. Umari Dist. Nanded.
2. Vasudev s/o Bapudev Joshi,
Age – 53, Occu- Service Mandal Adhikari
Goligaon, Tq. Umari, Dist. Nanded.

... **Applicants**

1. The State of Maharashtra,
(through Police Station Umari Tq. Umari
Dist. Nanded)
2. Superintendent of Police Nanded
S. P. Office Nanded Dist. Nanded
3. Gangaram @ Gangadhar s/o Ramaji
Sonwane
Age : - 45 years Occ – Agri
R/o Khairgaon Tq. Ardhapur
Dist. Nanded.

Respondents
... (Orig. Complainant)

Mr. A. D. Sonkawade (appointed) for Respondent No. 3.

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

DATE: : 07th August, 2018

1. The applicants have challenged the first information report

bearing Crime No. 57/2013 registered against them for the offence punishable under Section 420, 468, 471, 504, 506 read with Section 34 of the Indian Penal Code. The applicant No. 1 is Talathi and Applicant No. 2 is Circle Inspector. The respondent No. 3 – complainant, Gangaram filed an application before the Judicial Magistrate, First Class, Umari under Section 156 (3) of the Code of Criminal Procedure against the present applicants and other accused persons for the offences as referred above.

2. Complainant respondent No. 3 alleged that the land Gat No. 284 admeasuring 55 R was purchased in his wife's name i.e. accused No. 2 and the accused No. 1 - Balaji purchased the same from his wife. It is further alleged that the complainant had purchased this land after selling his ancestral land. His wife – accused No. 2, without his consent, sold the same in favour of the accused No. 1 under the sale deed dated 12.12.2012 admeasuring 55 R. It is further alleged that the present applicants being Talathi and Circle Inspector assisted the other accused person in taking mutation entry in favour of the accused No. 1 - Balaji. Accused Nos. 3 and 4 namely Sambhaji Bhutale and Datta Jadhav are the witnesses on the registered sale deed. The learned Judicial Magistrate, First Class, Umari, directed the concerned police to investigate into the matter, upon which the offence came to be registered as referred above.

3. We have heard the arguments of Mr. Shinde learned counsel for the applicants, Mrs. V. S. Chaudhary, learned APP for Respondent – State

and Mr. Sonkawade for the Respondent No. 3 and also perused the copies of the document placed on record, particularly the copy of the sale deed dated 25.02.1997 from which it appears that the accused No. 2 - Saraswati i.e. wife of the complainant, purchased the land from Gat No.284 under registered sale deed. Accordingly, her name was mutated as per the mutation entry No. 290. Further on perusal of the sale deed dated 12.12.2012, it appears that the accused No. 2 sold 55 R land in favour of the accused No. 1 Balaji under registered sale deed. Accordingly, the mutation entry No. 935 is taken and certified by the present applicants. So from the record apparently, it is seen that the accused No. 2 is the absolute owner of the said land and from the recital of the sale deed dated 12.12.2012, it appears that she executed the sale deed in favour of the accused No. 1 and another accused Sambhaji and Datta were the witnesses on the sale deed. After the sale deed the applicant Nos. 1 and 2 follow the provision of Section 150 of the Maharashtra Land Revenue Code, 1966 and after following due process of law the mutation entry was certified in favour of the accused No.1 Balaji. Furthermore, the applicants are the public servants and prior permission is required under Section 197 of the Code of Criminal Procedure is not obtained.

4. The act of the applicant Nos. 1 and 2 appears in their official capacity. Furthermore, the sale deed was executed on 12.12.2012 and the complaint was lodged before the trial court on 29.07.2013. Therefore, even considering these allegations in the complaint/FIR, it appears that there are

no allegations / ground to constitute the offence alleged against the applicants.

5. In view of the above, it appears that the first information report lodged against the applicants is without any basis. Hence the following order :

ORDER

- a) The application is allowed ;
- b) Relief is granted in terms of prayer clause (B);
- c) The fees of the learned counsel appointed for the respondent No. 3 is quantified as Rs.3000/- to be paid through High Court, Legal Services Authority;
- d) Rule is made absolute in those terms;
- e) Application is disposed of.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)