

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.60 OF 2017

Yakub Ibrahim Mangera and Anr.	Applicants
V/s.	
The State of Maharashtra & Anr.	Respondents

Mr. G.T.Kanchanpurkar, Advocate for Applicants.
Mr. A.R.Kapadnis, APP for the Respondent-State.

**CORAM :- R.M.SAVANT &
SANDEEP K. SHINDE, JJ.**

DATE :- 31ST JANUARY, 2018.

PC. :-

The above Criminal Application has been filed for quashing of the FIR being C.R.No.113 of 2016 dated 26.8.2016 registered with the Talasari Police Station, Dist: Palghar for the offences punishable under Sections 419, 420, 465, 467, 468, 471 read with Section 34 of the IPC. The gravamen of the allegation in the said FIR against the Accused is as regards the impersonation of the Complainant before the Assistant Sub-Registrar, Class 2, Taluka: Vasai, District: Thane. The Applicants herein claim to have purchased property from the Accused No.1 against whom principally the allegation of impersonation has been made. The First Informant

is the Assistant Sub-Registrar Class-2. He has stated in the FIR as to how the Complainant was impersonated before him and the document was registered. He has further stated that the witness was brought before him so as to admit execution of document was not Smt. Shashikala Ghanshyam Karulkar but somebody else. Hence, prima-facie transaction in question does not inspire confidence and appears to be fraudulent. The learned counsel for the Petitioner Shri Kanchanpura would contend that there is absolutely no role of the Applicants in so far as the impersonation is concerned. He contends that the Applicants are bonafide purchasers who have paid valuable consideration. He seeks to rely upon the judgment of the Apex Court dated 4.9.2009 in Criminal Appeal No.1695 of 2009 in **Md. Ibrahim & Ors. v. State of Bihar and Anr.** to buttress his contention as regards quashing of the FIR qua the Applicants. We, therefore, posed a question to the learned counsel for the Applicants whether the Applicants have taken any steps for asserting the rights under the Agreement which has been executed by the Accused No.1 in their favour. The learned counsel could not give an answer one way or the other. In our view, considering the fact that offence alleged is also one under Section 34 of IPC along with the other offences under the other provisions of the IPC, we decline to exercise our jurisdiction

under Section 482 of the Cr.P.C. In our view, the judgment of the Apex Court was in the context of the facts which were before the Apex Court wherein the accused persons and the Complainant were closely related and the dispute was as regards the partition of ancestral property. The said judgment in our view does not further the case of the Applicants in any manner. The Criminal Application is accordingly dismissed. However, it is clarified that if any application for discharge is filed, needless to state that the same would be considered on its own merits and in accordance with law uninfluenced by the instant order.

(SANDEEP K. SHINDE, J.)

(R.M.SAVANT, J.)