

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION(APPA) NO. 613 OF 2018

IN

CRIMINAL APPEAL NO. OF 2018

(VINODKUMAR RAJNARAYAN SAKSENA...VS..DILIPKUMAR RAJNARAYAN SAKSENA.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.T.Purohit, Advocate for Applicant.

CORAM : Z.A.HAQ, J.

DATED : SEPTEMBER 10, 2018.

The applicant seeks leave to file and prosecute appeal to challenge the judgment passed by the learned magistrate, by which the respondent/accused (real brother of the appellant) is acquitted of the charges for the offences punishable under Sections 420, 467, 468 and 471 of the Indian Penal Code. The accusations against the respondent are that he forged Will, said to have been executed by Vinaybai W/o. Badrinarayan Saksena. According to the complainant, the accused got the Will registered in the office of Sub-Registrar on 10th July, 2002, showing the Will to be dated 6th July, 1995. According to the complainant, the accused prepared ante-dated Will. The submission on behalf of the complainant is that the accused usurped the valuable properties on the basis of the forged Will depriving the complainant of his legitimate share in those properties.

After examining the matter with the assistance of the learned advocate for the appellant, I find that the learned Magistrate has properly appreciated the evidence brought on record. Except for stressing on the point that the testimony of

C.W. No.2 (Pradeep) is not considered in the right perspective, nothing else is pointed out on behalf of the complainant to show that the learned Magistrate has not dealt with relevant evidence of any other witness. This witness Pradeep (C.W. No.2) claimed that he had typed the Will and signature of Smt. Laxmidevi Verma (Mother of Pradeep) was obtained at the place showing signature of Vinaybai (who is shown to have executed the Will). The facts on record created a doubt about veracity of the evidence of this witness Pradeep. The learned advocate for the appellant/ complainant has not been able to point out that any relevant and material evidence is not considered by the learned Magistrate.

Apart from this, on query, the learned advocate for the appellant/ complainant has stated that the complainant has not filed civil suit to challenge the Will and to seek decree for substantive relief in respect of the properties which, according to the complainant, are usurped by the respondent/ accused. As, I do not find any illegality in the impugned judgment, I am not inclined to grant leave to the applicant/ appellant to file and prosecute the appeal.

The criminal application is **dismissed**.
Consequently, the appeal is rejected.

JUDGE