

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1356 OF 2019

Babasaheb s/o Apparao Samudre,
Age-50 years, Occu:Govt. Service,
R/o-Avon Building, Flat No.1702,
Hiranandani Estate, Ghodbandar Road,
Thane (East), Thane (M.S.)

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through District Superintendent
of Police, Latur, Dist-Latur,
- 2) The Police Inspector,
Shivaji Nagar Police Station,
Latur, Dist-Latur,
- 3) Smt. Shakuntala w/o Kisanrao Ghotale,
Age-60 years, Occu:Household,
R/o-Sambhaji Nagar, Latur,
Tq. & Dist-Latur.

...RESPONDENTS

...

Mr.Shrikant Y. Patil Advocate for Applicant.
Mr.M.M. Nerlikar, A.P.P. for Respondent
Nos. 1 and 2.
Mr.Rahul Garule Advocate appointed for
Respondent No.3.

...

**CORAM: T.V. NALAWADE AND
K.K. SONAWANE, JJ.**

DATE : 11TH JULY, 2019

JUDGMENT [PER T.V. NALAWADE, J.] :

1. Rule. Rule made returnable forthwith and heard finally with the consent of the learned counsel appearing for the parties.

2. The present proceeding is filed for quashing of First Information Report No.18 of 2014 registered with Police Station, Shivaji Nagar, Latur for the offence punishable under Section 467, 468, 471, 323, 504, 506 read with 34 of the Indian Penal Code. The allegations are in respect of execution of sale deed and registration of sale deed.

3. This Court has carefully gone through the First Information Report. In the First Information

Report, there are allegations against the present Applicant, who was working as Sub-Registrar in the office of the Registrar for registering of the document, that he joined hands with the vendor and purchaser of the disputed document, and he falsely mentioned the order of the Joint District Registrar, Latur, which was to the effect that previous objection with regard to income tax certificate was to be treated as waived and the documents were to be registered. Learned counsel for the Applicant draws attention of this Court to the order made by the learned Additional Sessions Judge, Latur in Criminal M.A. (Bail) No.211 of 2014. In the said order, learned Additional Sessions Judge, Latur discussed the aforesaid circumstances and it appears that he was shown the record of such directions given to the Applicant. Today photo copy of the said order made by the Applicant came to be produced and it shows that in fact such order was made.

4. It appears that in the past there was condition of production of income tax clearance certificate, but that condition was waived and accordingly circular was issued and on the basis of that circular, the order was made.

5. The submissions made do not show that there was any hurdle in registration of the sale deed which was presented for registration in the year 1999. This Court is not concerned about the year when it was presented, this Court is considering only the nature of the allegations against the present Applicant who was Sub-Registrar. In ordinary course, when sale deed is presented for registration, the Sub-Registrar can see the basic documents and then he is bound to register the sale deed. In view of these circumstances, this Court holds that it will be abuse of process of law if the Applicant is

directed to face the trial if the case is filed against him.

6. In the result, the Application is allowed. Relief is granted in terms of prayer clause "C". Rule is made absolute in those terms.

7. The fees of the appointed counsel is quantified at Rs.3,000/- and the High Court Legal Services Sub Committee, Aurangabad to pay the said fees to the appointed counsel.

(K.K. SONAWANE, J.)

asb/JUL19

[T.V. NALAWADE, J.]