

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

CRIMINAL APPLICATION NO. 3315 OF 2018

Rajkumar S/o Bhavarilal Chhajer,
Age 54 years, Occ. : Business,
R/o Lokseva, Kacheri Road, Amalner,
Tq. Amalner, Dist. Jalgaon.

... APPLICANT

VERSUS

1. The State of Maharashtra,
Through Inspector Police Station Amalner,
Tq. Amalner, Dist. Jalgaon.
2. Mohan s/o Balaji Satpute,
Age- 55 years, Occu- Business,
R/o- Station Road, Amalner,
Dist-Jalgaon.

... RESPONDENTS

...
Mr. B. R. Warmaa, Advocate for Applicant.

Ms. V. S. Choudhari, APP for Respondent No.1 / State.

Mr. S. P. Brahme, Advocate for Respondent No.2.

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

DATE : 14th June, 2019.

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

. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2 The proceeding is filed for relief of quashing of FIR No.90 of 2014, registered with Amalner Police Station, Taluka Amalner, District Jalgaon for the offences punishable under Sections 463, 464, 468, 471, 474, 384, 385 and 420 read with 34 of the Indian Penal Code.

3 The crime is registered on the basis of complaint of one Mohan Satpute, who is a member of Local Body, Amalner. He has made allegations mainly about creation of false record of layout plan. There is some dispute between the first informant, Mohan and the present Applicant, Rajkumar Chhajed. Rajkumar is a press reporter and Mohan was Councillor at the relevant time. On the basis of complaint made by Rajkumar, Mohan was disqualified from his membership of the local body.

4 Brother of Rajkumar, viz Ashok Chhajed had filed Criminal Application No.3058 of 2015 in this Court for quashing of FIR No.90 of 2014. This crime was registered on the basis of private complaint, which was referred to police by Judicial Magistrate First Class by making order under Section 156(3) of the Code of Criminal Procedure. This Court granted relief to Ashok Chhajed, brother of Rajkumar, by discussing the record and rival contentions. The observations with regard to the facts are from paragraph 4 of the said judgment and the said portion is as under:

“4) It is the case of respondent No.2 that as he had opposed illegal activities of the present applicant, the applicant had filed proceeding for disqualification of respondent No.2 from the post of Councillor. He has made allegation that about six months prior to the date of the complaint, Rajkumar demanded ransom of Rs.25 lakh to withdraw the proceeding which was filed for disqualification. It is his contention that amount of Rs. Two lakh was actually given. It is his contention that subsequently he had challenged the order of disqualification and stay is granted to the disqualification by this Court. It is his contention that one more application was made for disqualification by the

applicant against him for extracting money from him and he had also given report against officers of the local body that they had created false lay out map of CTS No.3223/B and he had intention to extract money from the officers also.

5) It is the contention of the respondent No.2 that the lay out plan of CTS No.3223/B which Rajkumar has been using is not genuine lay out plan and he has created false record of the lay out plan and he has committed aforesaid offences. By making allegation that the present applicant and his brother Rajkumar are demanding ransom from the respondent No.2 section 384 IPC was added in the private complaint.

6) Both the sides produced some record which mainly includes copies of sale deeds executed in favour of the family of present applicant by owners-Bhandarkar. Sale deed of the year 2000 shows that no number of the plot was mentioned though boundaries of the portion from CTS No.3223/B-1 were mentioned in the sale deed. However, in the subsequent sale deed of the year 2002 executed in favour of Ashok Chhajed by the owners, the number of the plot was mentioned as 19 and in the boundaries the Plot numbers like Plot Nos.18 and 20 of the aforesaid CTS were mentioned. There is record to show that respondent No.2 made construction on his plot No.18 which is part of the same CTS Number. The local body had issued notice to

respondent No.2 to return the original file of lay out plan of CTS No.3223/B-1 on 3-9-2003. Action is taken against respondent No.2 because of the illegal construction made on Plot No.18 from the CTS number.

7) When there is record of aforesaid nature, it is allegation of respondent No.2 that in the year 2013 false lay out plan was prepared by present applicant of aforesaid CTS number and then proceeding for disqualification was filed by making allegations of illegal construction by respondent No.2 and some reports were made against the local body that they had created false record of lay out plan subsequently to show that the Plot Nos.18 to 20 were not shown by them in the map. In fact, construction is made on these plots even by respondent No.2 and that was done prior to starting of the dispute. In any case, the open portion from the disputed CTS number was sold by making three portions of the open space and three different numbers are shown to be given to the three portions of the open space. In view of these circumstances, even at this stage it cannot be said that in the year 2013 the applicants prepared false record of lay out plan. Lay out plan must have been prepared by the owner and after that the owner must have sold Plot No.19 in favour of the family of the applicant. Thus, there is no force in the allegations that false lay out plan was prepared by the applicant.

8) There is no force in the allegations that the applicant and his brother were blackmailing respondent No.2 and they had extracted some money also from respondent No.2. Admittedly he had started proceeding for disqualification of respondent No.2 on the ground that even when he was the Councillor he had made illegal construction by making encroachment on the plots of the applicant. Order of disqualification is made by the authority against respondent No.2 though there are contentions that this Court has granted stay to the order of disqualification. Thus, there is no force in the contentions that the applicant and his brother were trying to blackmail respondent No.2. It is will be abuse of process of law if the further proceeding is allowed to continue in respect of the aforesaid allegations made by respondent No.2. In the result, the application is allowed. Relief is granted in terms of prayer clause (B). Rule is made absolute in those terms.”

5 In view of the aforesaid reasoning and as the same record is to be used against the present Applicant if the case is filed against him, this Court holds that it will be abuse of process of law if the Applicant is asked 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 (B).
- III. Rule is made absolute in those terms.

[K. K. SONAWANE, J.]**[T. V. NALAWADE, J.]***ndm*