

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO. 646 OF 2019

(Avantika d/o Gangadhar Chitnavis vs. The State of Maharashtra thr. PSO, PS, Kondhali,
Tah. Katol, District - Nagpur & Anr.)

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

Court's or Judge's orders.

Shri S.V. Manohar, Senior Advocate with Shri D.V. Chauhan, Advocate for the applicant.

Shri M.K. Pathan, APP for non-applicant No. 1.

Shri V.S. Bapat, Advocate for non-applicant No. 2.

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**CORAM : P.N. DESHMUKH &
PUSHPA V. GANEDIWALA, JJ.**
RESERVED ON : SEPTEMBER 11, 2019.
PRONOUNCED ON : SEPTEMBER 13, 2019.

Heard Shri S.V. Manohar, Senior Advocate with Shri D.V. Chauhan, learned counsel for the applicant, Shri M.K. Pathan, APP for non-applicant No. 1 and Shri V.S. Bapat, learned counsel for non-applicant No. 2.

This is an application for quashing of Charge Sheet No. 67 of 2018 dated 18.06.2019 arising out of Crime No. 52 of 2017 for the offence punishable under Sections 420, 417, 465, 468, 471 read with Section 34 of the Indian Penal Code registered at Police Station Kondhali, Tahsil – Katol, District – Nagpur.

The present applicant is arrayed as

accused No. 2 in the impugned First Information Report (FIR). In the impugned FIR, non-applicant No. 2 stated himself to be the owner of ancestral agricultural property situated at Mouza – Bhudakmadka, Tq. Katol, District – Nagpur, bearing Survey Nos. 68/1 and 68/2 ad measuring total 5.64 HR. He has stated that all his ancestors who were original owners of the abovesaid property are no more and, therefore, his father's servant Jago Warkhade and his son Govinda Warkhade were cultivating the said agricultural land.

It is alleged that accused No. 1 – Manohar Thakare got the said land transferred in his name by presenting fake vendors before the Sub-Registrar Office, Katol, and got sale deeds registered vide Sale deed Registration Nos. 531 and 532 of 2009 dated 03.03.2009. Thereafter said Manohar Thakre executed one Power of Attorney for the said property in the name of accused No. 3 - Pradip Sitaram Masram and sold half of the said property to the present applicant and other half through Power of Attorney – Pradip Sitaram Masram to the present applicant. In this way, present applicant has been arrayed as accused No. 2 in the FIR.

The FIR further reveals that as the present applicant did not respond to non-applicant No. 2 for this transaction, on the basis of suspicion, she has

been arrayed as accused No. 2 in the impugned FIR.

We have considered the submissions made on behalf of both the parties and perused the record. Record reveals that the applicant has purchased the said property vide two Sale Deeds dated 20.01.2012 for Rs.13,78,565/- (Rs. Thirteen lakh seventy eight thousand five hundred sixty five only) each, totaling to Rs.27,47,130/- (Rs. Twenty seven lakh forty seven thousand one hundred and thirty only). It is not the case of non-applicant No. 2 that the present applicant has purchased the said land below market value. The original transaction for alleged transfer of the said land in the name of accused No. 1 is of the year 2009 while the present applicant purchased the said land for market price in the year 2012. She herself appears to be the victim in the said transaction.

A Civil Suit for cancellation of sale deeds for the impugned land have already been filed against the present applicant and other accused persons. Not a single statement is there in the entire charge sheet about her involvement or conspiracy for getting transferred the said land initially in the name of accused No. 1 in the year 2009. Even learned counsel for non-applicant No. 2 could not show to this Court any involvement of the present applicant in the alleged fraud except the said purchases made by her at market price of the said property. In our opinion,

it would be a sheer abuse of process of law if the criminal proceedings are allowed to be continued against her. The same needs to be quashed against the applicant and accordingly, the same is quashed and set aside.

In the circumstances, we allow Criminal Application in terms of prayer clause (1) qua the present applicant only.

JUDGE

JUDGE

LATER ON :

The learned counsel for the applicant orally seeks leave to mention Regular Criminal Case No. in the prayer clause (1) in the application and to correct Regular Criminal Case Number as Regular Criminal Case No. 87 of 2019 instead of Regular Criminal Case No. 86 of 2019, stating to be wrongly mentioned in prayer clause (2) of the application.

In that view of the matter, leave as prayed for is allowed. Amendment be carried out forthwith.

JUDGE

JUDGE