

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

CRIMINAL APPLICATION (APL) NO. 248/2019

Rajesh S/o Vinayakrao Modshe and Anr.,

..VS..

State of Maharashtra, through Police Station Officer (City), Akot, Tq.Akot, Dist.Akola and
 Anr.,

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

Court's or Judge's orders

 Shri A. S. Shukla, Advocate h/f Shri R. L. Khapre, Advocate for the
 applicants.

Shri S. P. Deshpande, A.P.P. for the non-applicant No.1.
 Non-applicant No.2, in person.

CORAM : Z. A. HAQ, AND
M. G. GIRATKAR, JJ.

DATED : 21st November, 2019

The Investigating Agency filed "C" Final Report as regards the present applicants are concerned. On the objection taken by the non-applicant No.2, learned Magistrate refused to accept the "C" Final Report and directed further investigation. This decision of learned Judicial Magistrate is challenged in this criminal application.

According to the non-applicant No.2, the applicants have forged a Will and have staked ownership over the property of Shri Pundlik Govindrao Rohee.

Learned advocate for the applicants has pointed out that Special Civil Suit No.7/2016 is filed in the present non-applicant No.2 is also plaintiff, praying for decree for partition, separate possession, declaration and permanent

injunction and it is pending before the trial Court. It is pointed out that in the Civil Suit, declaration is sought that the Will dated 19th October 1996, alleged to have been executed by Shri Pundlik Govindrao Rohee is forged and therefore, null, void and illegal and not binding on the plaintiffs.

As the issue about legality of the Will in question is subjudiced before the competent Civil Court, in our view, it would not be proper to record any finding on the issue at this stage under Section 482 of the Code of Criminal Procedure.

Hence, the following order is passed :

RULE.

Shri S. P. Deshpande, learned A.P.P. waives notice for non-applicant No.1. Non-applicant No.2 present in person waives notice.

Considering the facts of the case, it is directed that there shall be interim order in terms of prayer clause (2), until further orders.

The Civil Court is directed to expedite the Special Civil Suit No.7/2016, and decide it till **01th December, 2020**.

Parties are granted liberty to move for hearing of this criminal application after decision of the civil suit.

CRIMINAL APPLICATION (APPA) NO. 1782/2019.

The non-applicant No.2 is practicing advocate, and therefore, there is reason to believe that he will assist the Court, maintaining decorum.

Hence, granting exemption from satisfying the committee, non-applicant No.2 is permitted to appear in person.

Application is **allowed** accordingly.

JUDGE

JUDGE

Kirtak