

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2630 OF 2019

1. Mr. Javed Khurshid Shaikh,
Age 45 years, Occu. Business,
2. Mrs. Asma alias Urmila Javed Shaikh,
Age 41 years, Occu. Housewife,
Nos. 1 and 2 R/o. Near Gite Hospital,
Balikashram Road, Ahmednagar.
3. Mrs. Nasim Gaffar Shaikh,
Age 56 years, Occu. Housewife.
4. Mr. Mohasin Gaffar Shaikh,
Age 35 years, Occu. Business,
Nos. 3 & 4 R/o. Room No. 8,
Old Police Line, Shivajinagar
Headquarter, Pune.
5. Smt. Rashida Mohammed Khan,
Age 60 years, Occu. Housewife,
6. Nasir Mohammed Khan,
Age 38 years, Occu. Business,
Nos. 7 & 8 R/o. Room No. 18,
Manisha Housing Society,
Gauravnagar, Behind PWD Office,
Ahmednagar.
7. Shaikh Asif Shafi,
Age 28 years, Occu. Service,
R/o. Police Headquarter,
Ahmednagar.
8. Sultan Ibrahim Tamboli,
Age 36 years, Occu. Business,
R/o. Shri. Shahu Vasahat,
Laxminagar, Pune.
9. Bharat Nanakram Gurnani,
Age 47 years, Occu. Business,
R/o. Savedi, Ahmednagar.
10. Savleram Bansi Zine,

Age 75 years, Occu. Business,
R/o. Pimpalgaon Malvi,
Tq. & Dist. Ahmednagar.

11. Shaikh Baba Mahammad,
Age 52 years, Occu. Business,
R/o. Sandve,
Tq. & Dist. Ahmednagar.

12. Ramkrishna Gopal Divte,
Age 30 years, Occu. Business,
R/o. Sarjepura, Ahemadnagar,
Tq. & Dist. Ahmednagar.

....Applicants.

Versus

1. The State of Maharashtra,
At the instance of
Sr. P.I., Kotwali Police Station,
Ahmednagar.
(Ori. Investigating Agency).

2. Mr. Shaikh Rauf Abdul Rehman,
Age 59 years, Occu. Service,
R/o. J-210, Krishna Enclave,
Ahmednagar.

....Respondents.

Dr. S.D. Tawshikar, Advocate for applicants.

Mr. R.D. Sanap, APP for respondent No. 1/State.

Mr. Shaikh M.A. Jahagirdar, Advocate for respondent No. 2.

AND

CRIMINAL APPLICATION NO. 2649 OF 2019

1. Mr. Shaikh Rauf Abdul Rehman,
Age 52 years, Occu. Service,
R/o. Pune Camp, Pune.

2. Sushil Marutrao Thorat,
Age 37 years, Occu.
R/o. Bungalow No. 15, Samtanagar,
Near TV Centre, Ahmednagar.

3. Mr. Raju Mehboob Shaikh,

Age 35 years, Occu.
R/o. House No. 11, Nalegaon,
HUDCO, Ahmednagar,
District Ahmednagar.

....Applicants.

Versus

1. The State of Maharashtra,
At the instance of
Sr. P.I., Kotwali Police Station,
Ahmednagar.

2. Mr. Javed Khurshid Shaikh,
Age 41 years, Occu. Bond Writer,
R/o. Gulabi Bungalow, Balikashram Road,
Ahmednagar, District Ahmednagar.
Presently R/o. Flat No. 205,
Shivparvati Apartment, Balikashram
Road, Ahmednagar,
District Ahmednagar.

....Respondents.

Mr. M.A. Shaikh, Advocate for applicants.

Mrs. D.S. Jape, APP for respondent No. 1/State.

Dr. S.D. Tawshikar, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
M.G. SEWLIKAR, JJ.**

DATED : 28/01/2020.

ORAL JUDGMENT :

1) Rule. Rule made returnable forthwith. Heard both the sides in both the matters for final disposal.

2) The first proceeding is filed for relief of quashing of C.R. No.145/2007 registered with Kotwali Police Station, Ahmednagar for the offences punishable under sections 120-B, 109, 119, 167, 420,

467, 468, 471, 474, 199, 200, 34 of Indian Penal Code (hereinafter referred to as 'I.P.C' for short). Chargesheet is also filed in the said crime and number is given as R.C.C. No. 677/2009 and it is pending in the Court of Chief Judicial Magistrate, Ahmednagar. The second proceeding is filed for relief of quashing of C.R. No. 203/2010 registered in the same police station for the offences punishable under sections 384, 323, 504, 506, 34 of I.P.C. and in that crime criminal case bearing R.C.C. No. 692/2013 is filed.

3) Statements were made by the learned counsels for applicants in both the proceedings that they have obtained no objection from the previous counsel Shri. Sachin S. Randive.

4) The informant in the first crime Shaikh Abdul Rahman Ameen was father in law of applicant No. 3 Smt. Nasim Gaffar Shaikh, grandfather of applicant No. 4 Shri. Mohasin Gaffar Shaikh, father of applicant No. 5 Smt. Rashida Mohammed Khan and grandfather of applicant No. 6 Nasir Mohammed Shaikh. He has made allegations in the F.I.R. that false record of power of attorney was created against him and by using false record of power of attorney accused No. 5 Mohasin Shaikh transferred his immovable property described in the F.I.R. to the other accused and other accused knew that the power of attorney was not given by the informant and thereby they have also committed the offences. This

F.I.R. was given on 17.11.2009. The informant of the second proceeding by name Shri. Javed Khurshid Shaikh gave report on 22.6.2010 and he has made allegations against the applicants of this proceeding that they had committed the offence of extortion and they were threatening that they would use video clip which was with them. Applicant No. 1 Shaikh Rauf Abdul Rehman is son of informant of the first proceeding.

5) Affidavits are filed in both the proceedings by the informants. One informant Shaikh Abdul Rahman Ameen is dead and his son has filed affidavit and it is submitted that the parties have settled the dispute. In the affidavits the terms of settlement are mentioned and it appears that the property which was shown to be sold by using power of attorney is re-transferred in the name of son of the informant. In view of the nature of allegations made and aforesaid relationship, this Court holds that relief needs to be given in both the proceedings.

6) So, both the proceedings are allowed. Relief is granted in terms of prayer clause 'B' of both the proceedings. Relief is granted subject to condition of depositing cost amount of Rs.15,000/- in each proceeding by the applicants. The amount is to be deposited with the High Court Legal Services Authority Sub Committee Aurangabad within 30 days from today. If the cost amount is not deposited within

aforesaid period, it is to be presumed that both the proceedings are dismissed.

Rule is made absolute in those terms.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]

SSC/