

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3216 OF 2018

Dinkar S/o Gangadhar Thote
Age: 45 Years, Occ. Agri and
Ex-Military Man
R/o. Shivshankar Colony,
Aurangabad.

...APPLICANT

VERSUS

1. The State of Maharashtra
Through Police Inspector,
Hasnabad Police Station,
Tq. Bhokardan Dist. Jalna

2. Namdeo Pandurang Thote,
Age : 55 Years, Occ. Agri,
R/o. Pimpalgaon Thote,
Tq. Bhokardan Dist. Jalna

..RESPONDENTS

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Advocate for the Applicant : Mr. A. N. Nagargoje

A.P.P for Respondent-State : Mr. R.V. Dasalkar

Advocate for respondent No.2 : Mr. R.V.Gore (Appointed)

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**CORAM : T.V. NALWADE &
M.G.SWELIKAR, JJ.**

DATE : 02-03-2020.

JUDGMENT (PER T.V. NALWADE,J) :-

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

2. Present proceeding is filed for relief of quashing of FIR

No. 172 of 2018 registered with Hasnabad Police Station Tq. Bhokardan District Jalna for the offences punishable under Sections 341, 294, 504, 506 read with Section 34 of the Indian Penal Code.

3. Both the sides are heard.

4. The crime is registered on the basis of report given by respondent No.2. In the FIR dated 08.10.2018, the informant has contended that in the incident dated 09.09.2018, present applicant first intercepted the informant and his nephew Ravindra Sonvane. It is contended that the applicant picked up quarrel by questioning them as to why they were finding customer for selling the agricultural land. It is contended that applicant said that the land was purchased in the name of his wife by him and the informant should not make an attempt to sell the land. It is contended that abuses were also given to the informant and Ravindra. Allegations are made that during the incident fist blow was given by the applicant to the informant on his face and due to that he sustained injury. It is contended that threat was given to teach the the lesson if the informant and Ravindra intervene in the possession over the land.

5. The submission made and papers of the investigation show that agricultural land which was standing in the name of Ravindra Sonawane was purchased under sale deed dated 13.07.2017 by the wife of the present applicant. It was out and out sale. In the First Information Report allegation is made that the applicant is doing money lending business illegally and enquiry needs to be made into the activity of the applicant. No specific mention is there in respect of the sale deed dated 13.07.2017. The learned A.P.P submitted that on 20.03.2018 there was some conversation between the present applicant and Ravindra Sonawane and Ravindra Sonawane had recorded the conversation. Transcript of the conversation is produced on record and learned A.P.P submitted that from the conversation it can be inferred that it was loan transaction and not out sale. The said conversation shows that it was in respect of a loan given, it cannot be said that it was in respect of aforesaid document of sale. Further the submissions made show that there is no record with the informant or with the police to show that more such transactions were made by the present applicant. In view of provision of Section 39 of The Money Lending Act, it needs to be shown that the persons like applicant is doing money lending business illegally, without

obtaining license. There is no such record as against the applicant. If there was one transaction with Ravindra, on the basis of that transaction inference is not possible that applicant is doing money lending business illegally. He is retired military man and the aforesaid transaction was made for consideration of Rs. 12 lakhs. The police papers do not include injury certificate in respect of informant and Ravindra. It appears from the papers that Ravindra is interested in getting back the land and he wants to sell it for higher price. There is clear possibility that to pressurize the present applicant the First Information is given. This Court holds it will be abuses of process of law if the applicant is asked to face the trial for the aforesaid offense on the basis of aforesaid record. In the result, following order :-

ORDER

- I. Application is allowed.
- II. Relief is granted in terms of prayer clause 'A'.
- III. Rule made absolute in those terms.

**(M.G.SWELIKAR)
JUDGE**

**[T.V. NALAWADE]
JUDGE**