

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.3167 OF 2017

Dhananjay Vithal Gawade and Ors.

...Petitioners

vs.

The State of Maharashtra

...Respondent

Mr. Abhijeet Desai for the Petitioners.

Mr. K. V. Saste, APP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI,
ACTING CHIEF JUSTICE &
N. R. BORKAR, J.**

DATE : 25/02/2020.

PC.:

. Submission of the owner is in the light of agreement and arrangement with the developer actual construction and development was the responsibility of the developer. Excess construction made by the developer was pointed out to the planning authority but then the planning authority did not take any action against it.

2. 7 years after construction was over and third party interest were created, now the prosecution is lodged against the present petitioners. Effort is to urge that by pointing out to the planning authority the fact that unauthorized construction was being raised, the owner had discharged his obligation.

3. We are not inclined to intervene in extraordinary jurisdiction. Obligations interse the owner and the developer can be looked into by the trial Court.

4. It cannot be ignored that third party interest are allowed to be created and the structure which formed subject matter thereof is claimed to be illegal and unauthorized.

5. Hence, keeping all contentions of the petitioners open, we refuse to intervene. The petition is rejected and disposed of.

(N. R. BORKAR, J.)

(ACTING CHIEF JUSTICE)