

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

CRIMINAL APPLICATION (ABA) NO.886 OF 2019

(Smt. Usha wd/o Tejram Tiwari Vs. State of Maharashtra thr. PSO PS Wadi, Nagpur)

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

Court's or Judge's orders.

Shri K.M. Nankani, Advocate for Applicant.
Shri P.S. Tembhare, APP for Non-Applicant/State.
Shri P.P. Kothari, Advocate for Intervenor.

CORAM: ROHIT B. DEO, J.

DATE: 3rd MARCH, 2020.

The applicant lady is apprehending arrest in Crime 315/2019 registered with the Wadi Police Station, Nagpur for offences punishable under Section 420, 406, 467, 468, 471 read with section 34 of the Indian Penal Code.

2] The crime is registered on the report lodged by Shri Sumit Rathi.

3] The gist of the report is that the father of Sumit Rathi purchased plot 5 admeasuring 5000 sq.ft. in Mouza Kachimet (for short the plot) from Mrs. Sunita Dube vide registered sale-deed dated 07.12.1987. The informant contends that he is in possession of the plot and the said plot is let out to Unnati Vehicle Private Limited.

4] The informant contends that when he visited the Dharampeth Zone Office of the Corporation to pay the Corporation tax, he was shocked to know that the

Corporation tax was paid by the present applicant and her son Manoj. The informant was further told that in the Corporation record the plot is mutated in the name of the applicant and her son Manoj. The informant demanded the documents on the basis of which the mutation in favour of the applicant and her son was effected. The informant came to know that a fraudulent sale-deed purportedly dated 23.05.1989 purportedly executed by his father in favour of Smt. Vimla Shankarprasad Tiwari the mother-in-law of the applicant, is the basis of the sale-deed. The informant further alleged that while Smt. Vimla Shankarprasad Tiwari died on 27.03.2007, the applications which are preferred for regularization of the plot, on 29.06.2018, bear the forged signature of the deceased Vimla Shankarprasad Tiwari.

5] It is no longer in serious dispute that the sale-deed which is the basis of the applicant's claim is non-existent. The police have inquired and have found out that no such sale-deed is registered. On her part, the applicant has given up her claim to the plot. The applicant and her son had filed Civil Suit 275/2019 seeking declaration of ownership and possession. It is not in dispute that the applicant and her son have withdrawn the said civil suit. The informant has also filed a civil suit seeking a declaration of ownership. However, since now there is no adverse claim to the plot, the suit filed by the informant has worked itself out. It would not be necessary for the informant to seek the declaration of ownership since the

persons who are disputing the ownership have given up that claim and have withdrawn their suit.

6] Civil proceedings are done and the dusted. The question is whether the applicant should be released on anticipatory bail. The case of the applicant appears to be that she was misled into making certain claims by one Sunil Meshram who represented to her that her mother-in-law owns the plot. The said Sunil Meshram has expired. Be that as it may, the contention of the applicant, who is a lady and is not educated, appears to be probable. In any event, there is no need for custodial interrogation. The learned APP would submit that interrogation is necessary to recover the original sale-deed. However, now that it is not disputed that there is no sale deed in existence, the recovery of original sale-deed ceases to be of any significance. I am satisfied that the applicant has made out a case for exercise of discretion in her favour. The application is allowed.

7] The interim order dated 26.12.2019 is made absolute with the modification that the applicant shall report at the concerned Police Station as and when required by the Investigating Officer.

JUDGE