

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 CRIMINAL WRIT PETITION NO.368 OF 2019

PRAKASH TARACHAND CHOPADA DIED THROUGH LRS PANKAJ S/O.
PRAKASH CHOPADA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mrs.Rashmi S. Kulkarni, Advocate for the petitioner.
Mr.S.P. Sonpawale, APP for the respondent/State.
Mr.N.S. Muthiyan, Advocate for respondent Nos.2 & 3.

CORAM : N.R.BORKAR, J.
DATED : 25.11.2021

PC :-

01. The father of the petitioner, who died on 19.12.2008, has filed complaint case (RCC No.124 of 1992) against respondent Nos.2 and 3 along with other co-accused for the offence punishable under sections 420 read with section 34 of the Indian Penal Code. After recording the evidence before charge, the learned Magistrate had discharged respondent Nos.2 and 3 by order dated 05.06.2015. The revision petition was filed against said order of the learned Magistrate dated

05.06.2015. By order dated 16.10.2018, the learned revisional Court dismissed the revision petition. Both these orders are impugned in this petition.

02. I have heard learned Counsel for the petitioner, and learned Counsel for respondent Nos. 2 and 3.

03. The learned Counsel for the petitioner submits that respondent Nos.1 and 2 along with other co-accused portrayed to the original complainant that they are the partners of partnership firm, namely, Vardhman Development Corporation. It is submitted that they with intention to deceive the complainant and the witnesses offered to sell certain plots to them with an assurance that the plots would fetch huge price within a short span of time. It is submitted that they induced the complainant and the witnesses to purchase 45 plots, though at the time of executing agreements to sell, they were not having title to the said property. It is submitted that respondent Nos.2 and 3 with other co-

accused were also aware that the competent authority would never allow the property in question for residential purpose as the said property was already reserved for industrial purpose. It is submitted that in-spite of agreement to sell in favour of the complainant and the witnesses, very same plots were sold to third party. It is submitted that in such circumstances the learned Trial Court was not justified in discharging respondent Nos.2 and 3.

04. On the other hand, the learned Counsel for respondent Nos.2 and 3 submits that respondent Nos.2 and 3 were never partners of partnership firm, namely, Vardhman Development Corporation. It is submitted that admittedly, the alleged agreements to sell do not bear signatures of respondent Nos.2 and 3. It is submitted that there is no evidence on record to infer that respondent Nos.2 and 3 were partners of partnership firm – Vardhman Development Corporation. It is submitted that the Trial Court, considering the facts and circumstances,

was justified in discharging respondent Nos.2 and 3 from the alleged offences.

05. The Trial Court, after appreciating the evidence recorded before the charge, has concluded that the evidence on record is not sufficient to frame charge against respondent Nos.2 and 3 for the offences alleged against them. The revisional Court after hearing the parties concurred with the said conclusion of the Trial Court. Admittedly, the alleged agreements to sell do not bear signatures of respondent Nos.2 and 3, either as partners of the firm or otherwise. I have perused the evidence on record. Admittedly, the petitioner was not present at the time of alleged transaction. The evidence of witness Suresh Bumb is not sufficient even if remains unrebutted to hold that the respondent Nos.2 and 3 were partners of partnership firm – Vardhman Development Corporation.

06. Considering these facts and circumstances, no

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interference is called for in the orders impugned in the writ jurisdiction. The petition is dismissed.

[N.R.BORKAR,J.]