

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1588 of 2021**

Shri Sandeep Ramchandra Kamble @ Vardhan] .. Petitioner
 V/s.
 Shri Ramchandra Khopanna Kamble & Anr.] .. Respondents
 ...
 Mr. Manoj Patil, for Petitioner.
 Ms. S.V. Sonawane, Addl. PP for State.

CORAM : N.R.BORKAR, J.**DATE : 17TH JUNE 2021.****(THROUGH V.C.)****P.C.:**

1] This Petition takes an exception to the order passed by the Additional Sessions Judge, Ichalkaranji, dated 18.03.2020 in Criminal Revision Application No.21 of 2017.

2] The Petitioner herein had filed the complaint case against the respondent No.1 and others for the offences punishable under Sections 193, 199, 200 and 420 read with 34 of the Indian Penal Code. By order dated 19.03.2016 the learned Magistrate had issued process against the respondent No.1 and others for the offences punishable under Sections 199, 200, 420 read with 34 of the Indian Penal Code. The respondent No.1 had questioned the said order by filing revision petition before the Sessions

Court. By order impugned, revisional Court allowed the said revision and quashed the order of issuance of process.

3] I have heard learned counsel for the Petitioner and learned Addl. PP for the Respondent-State.

4] The allegations are that Respondent No.1 had filed false affidavit before the Sub Registrar and on the basis of said false affidavit, alienated the land bearing Gat No.350 at Mauje Nej, Taluka – Hatkangale, District – Kolhapur. It is submitted that the Petitioner is the son of respondent No.1. However, the respondent No.1 in his affidavit in question has stated that his wife Ushatai Kamble and daughter Sandhyarani Talvalkar are the only legal heirs to him. It is submitted that respondent No.1 who was not entitled to alienate the land in question being ancestral property, has filed false affidavit with a view to deprive the Petitioner of his share in land in question. It is submitted that the learned Magistrate was, therefore, justified in issuing process for the offences punishable under Sections 199, 200, 420 read with 34 of the Indian Penal Code.

5] It is submitted that even report was called under Section 202 of Cr. P.C. before issuing process and as the case of the Petitioner was found to

be true, the process was issued against respondent No.1 and others. It is submitted that considering the facts and circumstances, the revisional Court ought not to have interfered with the order of issuance of process. It is submitted that order impugned, therefore, needs to be quashed and set aside.

6] Admittedly, the learned Magistrate has issued process under Section 199, 200, 420 read with 34 of the Indian Penal Code.

7] Section 195 of the Code of Criminal Procedure states that no Court shall take cognizance of the offences punishable under Sections 172 to 188 except on the complaint in writing of the public servant concerned and as regards offences punishable under Sections 193 to 196, 199, 200, 205 to 211 and 228, except on the complaint in writing of court concerned, or by the officer of the Court authorized by that Court. The learned Magistrate thus erred in issuing process for the offences punishable under Sections 199 and 200 of the Indian Penal Code, on the complaint at the instance of Petitioner. As regards issuance of process under Section 420 of the Indian Penal Code, by no stretch of imagination the said Section would attract in the present case. If the petitioner has any alleged right in land in question, it is purely a civil dispute. The revisional Court, was therefore, justified in

allowing the Revision Petition. Hence, no interference is called for in the order impugned.

8] In the result, Petition is dismissed.

[N.R.BORKAR,J]