

**1. IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION (APL) NO. 456 OF 2015

Prabhudas Vithuji Chikate,
Aged 63 years, Occ. Agriculturist,
R/o Bawane Plot Warora,
Tq. Warora, District Chandrapur.

APPLICANT

VERSUS

1. State of Maharashtra,
Through Police Station Officer,
Wani, Tq. Wani, District Yavatmal.

2. Pundlik Mahadeo Khonde,
Aged 74 years, Occ :Agriculturist,
R/o Murdhoni,
Tq. Wani, District Yavatmal.

NON-APPLICANTS

Ms. Falguni Badani, Advocate h/f Shri S.V.Sirpurkar, Advocate for the applicant.

Shri T.A.Mirza, APP for the non-applicant no.1.

None for the non-applicant no.2.

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**CORAM: Z. A. HAQ AND
AMIT B. BORKAR, JJ.**

DATED: 5.3.2021.

ORAL JUDGMENT (PER : AMIT B. BORKAR, J.) :

1. By this application under Section 482 of the Code of Criminal Procedure, 1973, the applicant has challenged registration of the First Information Report No.77/2015 registered with the non-applicant no.1 – Police Station for offence punishable under Section

420 read with Section 34 of the Indian Penal Code.

2. The First Information Report came to be registered against the applicant with the accusations that the applicant alongwith others got executed Sale-deed in respect of Gat No.64 admeasuring 1 H. 82 R of the land of the non-applicant no.2 for an amount of Rs.1,50,000/- which was received by other accused as loan and in return got Sale-deed of agricultural land of the non-applicant no.2 in his favour. It is alleged that since the non-applicant no.2 was in need of money, the accused no.4 assured him financial help and the accused no.2 told the non-applicant no.2 that the applicant is his partner. It is further alleged that the accused no.2 told the non-applicant no.2 that he will receive an amount of Rs. 1,50,000/- from the accused no.2 and the non-applicant no.2 will have to pay interest @ 2% but as security. The non-applicant no.2 will have to execute mortgage deed of his agricultural land and accordingly, he executed the document. But, subsequently the non-applicant realised that the document executed by him was Sale-deed executed in favour of the applicant.

3. The applicant has, therefore, filed present application challenging registration of the First Information Report.

4. On 17.6.2015, this Court issued notice to the non-

applicants and directed that no coercive steps shall be taken against the applicant. On 16.03.2016, this Court issued Rule.

5. The non-applicant no.1, in pursuance of the notice issued by this Court, filed reply stating that the applicant got executed sale-deed in his favour by portraying to the non-applicant no.2 that mortgage-deed was to be executed in favour of the applicant no.1. It is only when the non-applicant no.2 realised about the document, he lodged report against the applicant no.1 and others.

6. The non-applicant no.2 has filed written submissions and has stated that the applicant no.1 got executed Sale-deed in his favour by portraying to the non-applicant no.2 that mortgage-deed is being executed in favour of the applicant no.1.

7. We have carefully considered the allegations in the First Information Report and it appears that by registered Sale-deed dated 22.3.2013, the non-applicant no.2 has executed Sale-deed of his property in favour of the applicant no.1. The non-applicant no.2 has also filed Civil Suit bearing Special Civil Suit No.15/2014 seeking declaration that the Sale-deed executed in favour of the applicant dated 22.3.2013 be declared as null and void and injunction not to disturb possession of the non-applicant no.2. The

said suit is pending.

8. The document of Sale-deed is registered under the provisions of the Indian Registration Act and the non-applicant no.2 has already filed Special Civil Suit seeking declaration that the Sale-deed executed in favour of the applicant no.1 be declared as void. The non-applicant no.2 has not denied his signature on the Sale-deed, we are, therefore, satisfied that the dispute between the applicant and the non-applicant no.2 is essentially a Civil dispute, which would be decided in Special Civil Suit No.15/2014 filed by the non-applicant no.2 before the Civil Judge, Senior Division, Kelapur. We are, therefore, satisfied that registration of the First Information Report against the applicant amount to abuse of process of the Court. We, therefore, pass the following order:

ORDER

First Information Report No.77/2015 filed by the non-applicant no.1 Police Station for offence punishable under Section 420 read with Section 34 of the Indian Penal Code is quashed and set aside.

Rule is made absolute in the above terms.

JUDGE

JUDGE