

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

CRIMINAL WRIT PETITION NO.1155 OF 2018

Sau. Snehalata Ashok Pawar

Aged about 51 yrs.,

Occ: Service,

R/o Gadgebaba Colony,

Multai Road, Warud,

Tq. Warud, Dist. Amravati.

..... **PETITIONER**

...V E R S U S...

1. State of Maharashtra, through PSO
Police Station Warud, Tq. Warud,
District Amravati.

2. Siddeshwar Wamanrao Ganorkar
Aged about 48 yrs., Occ: Nil,
Residence of Kamargaon,
Tq. Karanja Lad, Dist. Washim
Residing at Gadgebaba Colony,
Multai Road, Warud,
Tq. Warud, Dist. Amravati.

..... **RESPONDENTS**

Mr. Abhay Sambre, Advocate for Petitioner.

Mr. M.K. Pathan, APP for Respondent 1/State.

Mr. M.R. Joharapurkar, Advocate for Respondent 2.

CORAM: **ROHIT B. DEO, J.**

DATE: **8th FEBRUARY, 2021.**

ORAL JUDGMENT:

The petitioner is arraigned as accused in Regular
Criminal Case 82 of 2009 wherein the learned Magistrate was

pleased to frame charge under Sections 406, 182 and 193 of the Indian Penal Code.

2. The petitioner preferred Criminal Revision Application 81 of 2015 challenging the order of framing the charge. The learned Additional Sessions Judge-4, Amravati dismissed the criminal revision application.

3. One of the submissions canvassed by Mr. Abhay Sambre, the learned counsel for the petitioner – accused is that although a ground was specifically raised in the memo of revision that the complainant is a stranger to the property and could not have instituted the complaint case, the said ground is not considered.

4. The complainant Mr. Siddeshwar Wamanrao Ganorkar is the brother-in-law of the accused Mrs. Snehalata.

5. In view of the order which I propose to make, it would not be necessary to state in detail the averments in the complaint. Suffice it to say, that the substratum of the allegation is that the accused, who is the sister of the complainant's wife,

falsely claimed to be the sole legal heir of her elder sister Mrs. Indira @ Indubai Nathuji Malpe, swore an affidavit to the said effect and obtained mutation in her sole name. According to the complainant, the property of Mrs. Indubai devolves on her four siblings including the accused. At one point in time, the siblings did execute a power of attorney in favour of the accused, which was withdrawn by registered documents as far back as in 1991, 1997 and 1998.

6. Mr. Abhay Sambre's submission that Mr. Siddeshwar Wamanrao Ganorkar has no locus to maintain the complaint is premised on the admitted fact that it is his wife who is a co-owner, and the aggrieved person, if at all. Mr. Abhay Sambre would invite my attention to a decision of the learned Single Judge to support the submission.

7. Per contra, Mr. Joharapurkar would argue that the concept of locus is foreign to criminal jurisprudence unless there is a statutory provision which restricts the right to kick start the process of criminal law. Reliance is placed on the constitution bench decision of the Apex Court in *A.R. Antulay v. Ramdas Srinivas Nayak and another* (1984) 2 SCC 500.

8. I have noticed that although a ground is specifically raised in the memo of revision that the complainant did not have the locus to maintain the complaint, the said ground is not even touched much less considered.

9. In this view of the matter, the judgment dated 31.10.2018 in Criminal Revision Application 81 of 2015 is quashed.

10. The matter is remitted to the learned Revisional Court for fresh decision in accordance with law, after hearing the parties.

11. The parties shall appear before the Revisional Court on 03.03.2021 and shall bring this order to the notice of the court.

12. The Revisional Court shall decide the revision as expeditiously as possible and in any event within ninety days from the date of the appearance of the parties.

13. No formal notice need be issued by the Revisional Court.

14. Rule is made partly absolute in the aforestated terms.

JUDGE

NSN