

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 224 OF 2017
WITH
WRIT PETITION NO. 225 OF 2017

Dr. Sanjay B. Patil

... Petitioner

V/s.

State of Maharashtra and ors.

... Respondents

Mr. Mahesh H. Chandanshiv for the Petitioner in both petitions.
Mr.Y. Y. Dabke, APP for the Respondent/State in both petitions.
Mr. Niranjan Mundargi i/b Mr. Omkar Mulekar and Mr.P.A.
Bhangale for Respondent Nos.2 and 4 in both petitions.

CORAM : N.R. BORKAR, J.

DATE : 22 JULY 2022.

P.C.

1. Both these petitions are filed against the common judgment and order dated 22 November 2016 passed by the learned Additional Sessions Judge, Kolhapur in Criminal Revision No.114 of 2015 and Criminal Revision No.120 of 2015.

2. The Petitioner herein had filed the complaint case against the Respondent Nos.2 to 4 for the offences punishable under Sections

420, 464, 466, 468, 471 read with 34 of the Indian Penal Code (for short 'IPC').

3. The trial court by order dated 12 August 2015 issued the process against the Respondent Nos.2 to 4 for the offence punishable under Sections 420, 466, 468, 471 read with 34 of IPC. Against the order of issuance of process, the Respondent Nos.2 and 3 had filed Criminal Revision No.114 of 2015 and Respondent No.4 had filed Criminal Revision No.120 of 2015. By the impugned judgment and order, the learned Revisional Court had quashed the order of issuance of process.

4. I have heard the learned counsel for the Petitioner and the learned counsel for the Respondent Nos.2 to 4. The learned counsel for the Petitioner submits that the Petitioner and Respondent No.4 are real brothers. Their father was owner of 32609 shares of Respondent No.3-Company and after his death the said shares were transferred in the joint names of Petitioner and Respondent No.4. It is submitted that on 27 June 2009, Respondent No.4 in connivance with the Respondent Nos.2 and 3 got transferred 31749 shares in his individual name. It is further submitted that on 26 September 2009, the Respondent No.4 in connivance with Respondent Nos.2 and 3 sold 860 shares to third party without the consent of the Petitioner. The learned counsel for the Petitioner submits that considering the

facts and circumstances, the trial court was justified in issuing the process for alleged offences and the Revisional Court ought not to have interfered with the order of issuance of process, in revisional jurisdiction.

5. On the other hand the learned counsel for the Respondents submits that the Petitioner has suppressed the material facts from the trial court, i.e., execution of Partition Deed dated 25 July 2009, wherein there is specific recital in respect of shares in question. It is submitted that if the Petitioner had filed the said Partition Deed before the trial court, the trial court would not have issued the process for alleged offences. It is submitted that the Revisional Court was thus justified in quashing the order of issuance of process.

6. I have perused the judgment and order of the Revisional Court. The Revisional Court has referred to recitals in the Partition Deed to quash the process. It is not the case of the Petitioner that in the Partition Deed there is no reference at all to the shares in question. In such circumstances, the Petitioner ought to have disclosed about it in his complaint and ought to have filed it before the trial court. The Petitioner has, however, not disclosed about it before the trial court. The learned counsel for the Petitioner submits that, even as per recital in Partition Deed, transfer or sale of shares in question was to be done with the consent of the Petitioner. However,

the fact remains that the Petitioner has suppressed the said material fact in his complaint. Considering the above facts and circumstances, no interference is called for in the order impugned. In the result, both Writ Petitions are dismissed.

(N.R. BORKAR, J.)