

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2396 OF 2022

Riyaz Ramzan Khatri .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr. Rajesh Khobragade a/w Mr. Kunal Phoole for the Applicant.

Mr.S.V. Gavand, A.P.P. for the State/Respondent.

Mr. Suraj Iyer a/w Parth Vyas i/b Ms. Archana Khan for the Intervenor.

...

CORAM: BHARATI DANGRE, J.
DATED : 19th SEPTEMBER, 2022

P.C:-

1. The applicant is apprehending his arrest in connection with C.R No. 404 of 2022 registered with Khar Police Station which invokes sections 465, 467, 468, 471, 420, 452, 143, 147, 504, 506, 427, 380, 309, and 120 (b) of IPC.

The prosecution case is that the son-in-law of one Smt. Pushpa Gadwani aged 70 years approached the Police Station and informed that she is in possession of the suit property, in form of Laxmi Mansion, 14th floor, Khar (west), Mumbai which has an old bungalow

standing there. It was alleged that mother of the Pushpa Gadwani had purchased the said property in the year 1960 from the erst while owner Hastimal Jain. Smt. Laxmibai expired and name of Pushpa Gadwani along with other siblings came to be recorded on the property card. As the other heirs pre-deceased, the applicant became the owner of the property. Laxmibai Punjabi expired, who was survived by her heirs and after some of the legal heirs pre-deceased the applicant, a power of attorney was executed in her favour conferring upon her the rights to develop the property and sell the same. The power of attorney dated 14/08/2012 did not authorise Jagdish Punjabi to sale or transfer the property without her consent, but it is alleged that he sold the property to one Nandkishore Rathi on 13/03/2015. It is also alleged that Laxmibai had sold the property to one Ramzan Khatri and his son Riyaz Khatri filed a suit before Dindoshi Court.

The preceding events are not of much importance as the fact that in Special suit no. 3032 of 2021 instituted by Riyaz Khatri, Smt. Pushpa Gadwani was arraigned as a defendant, her address being given as Santacruz, Mumbai.

Consent terms came to be executed between the parties i.e. the

plaintiff and defendant and it was depicted that on 9/03/2020 a settlement was arrived between them in form of an undertaking to the court and the advocate for the plaintiff and defendant put their signature on the consent terms.

2. The consent terms came up for consideration before the National Lok Adalat and the counsel for the defendant was asked to make a video call to Mrs. Puspa Gadwani and accordingly a fictitious person other than Smt. Pushpa Gadwani appeared and she approved the consent terms, before the panel, and the suit resulted into a compromise.

3. The case of the prosecution is Smt. Pushpa Gadwani neither signed the consent terms nor she presented herself before the National Lok Adalat, which recorded settlement between the parties, and this resulted into registration of the subject CR.

The counsel appearing Smt. Pushpa Gadwani also came to be arraigned as accused but considering the limited role and considering the relationship between the client and a counsel, where he specifically made a statement that a lady was introduced to him as Pushpa Gadwani and since he has no means of ascertaining the said statement, he filed his Vaklatnama, and on the given mobile number

gave a video call to her to satisfy the members of the National Lok Adalat.

The prosecution allege that the consent terms are forged, in an attempt to deprive Smt. Pushpa Gadwani of the property. As far as the Civil suit is concerned the parties no doubt are at liberty to fight out their battle but the attempt was to show that there was a settlement that had arrived between the parties in the said suit which would have resulted into a decree.

The allegations are serious in nature and definitely warrant a custodial interrogation of the applicant. Hence the application is rejected.

(SMT. BHARATI DANGRE, J.)