

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.5315 OF 2019

Dipesh Sampat Mehta, Age 57 years,
Occ.Advocate & Solicitor (U.K),
At Dhoop Chhaon, Plot No.201,
Road No.28, Shri Narsinh Mehta Marg,
Bandra (West), Mumbai-400 050.

Petitioner

versus

1. The State of Maharashtra,
2. The Superintendent of Police, Alibaug,
3. Senior Inspector of Police, Mandwa
Sagri Police Station, Alibaug,
4. Archana Vikram Shetty, R/o.Dombivali (E),
Thane,
5. Anjali Vivek Talwar,

6. Vivek Prannath Talwar,
both R/o.IL Palazo,
Malabar Hill, Mumbai.

Respondents

Mr.Rumi Mirza i/by Mr.Prashant Kulkarni, Advocate for petitioner.
Mr.VR.Kasle, Advocate for respondent no.4.
Mr.A.R.Patil, APP, for Respondent-State.
Mr.R.D.Soni i/by Ram & Co; Advocate for respondent nos.5 and 6.

CORAM : PRAKASH D. NAIK, J.

DATE : 12th September 2022

PC :

1. The petitioner has challenged the order dated 13th July 2019 passed by National Maha-Lokadalat disposing off criminal proceedings initiated by respondent no.4 against respondent nos.5 and 6.

2. The respondent no4 has filed a private complaint before the Court of learned Chief Judicial Magistrate, First Class, Alibag for offences under Sections 177, 181, 201, 406, 420, 465, 467, 468, 471, 120-B 34 of Indian Penal Code. The respondent nos.5 and 6 were impleaded as accused nos.1 and 2. Learned Magistrate directed inquiry u/s.202 of Code of Criminal Procedure. Police submitted report. Vide order dated 28th June 2016 learned Judicial Magistrate, First Class, Alibag issued process for the offences punishable under Sections 177, 181, 406, 420, 465, 467, 468, 471, 120-B and Section 34 Indian Penal Code.

3. In the aforesaid complaint the complainant-respondent no.4 had alleged that the land gat no.263 was originally owned by grandfather of the complainant late Rajaram Kashinath Acharekar. Initially the land was belonging to the government. The complainant's grandfather was a freedom fighter and hence the said land was gifted to him. Shalini Balwant Mane was the daughter of late Rajaram Acharekar. Complainant is daughter of Shalini Mane. Father of complainant had died on 16th May 2004. Her brother died on 17th April 2010. Thus, the complainant being legal heir of Shalini was entitled for entire share of Shalini relating to Gat No.263. Accused no.2 approached the legal heirs of late Rajaram Acharekar and represented that he is willing to develop the property. Accused no.2 mislead the complainant's mother and her uncle and executed power of attorney in his favour. The complainant obtained 7/12 extract of the property on 18th July 2014 and noticed that property is in the name of accused no.1. The complainant obtained copy of mutation entry no.1166 relating to said property on 18th July 2014

and it was revealed that there was sale transaction in respect to the said property. She obtained certified copy from the sub-registrar. It was noticed that there was act of grabbing the property. The property was belonging to the grandfather of complainant who died on 24th June 1990. The names of legal representatives were entered by mutation entries. The mother of complainant died in 2009. Accused no.2 was husband of accused no.1. They were residents of Alibag. The power of attorney was fabricated. There were no photographs of the concerned parties. It was not signed by mother of the complainant. The signatures are forged. The accused nos.1 and 2 registered the sale deed on the basis of false power of attorney with Sub Registrar, Alibag.

4. The complaint was pending before the concerned Court. During pendency of the said complaint there was settlement between complainant in the said complaint i.e. respondent no.4 and accused therein i.e. respondent nos.5 and 6. Both the parties jointly filed pursis before National Maha-Lokadalat. Vide order dated 13th July 2019 the pursis was allowed and criminal proceedings was disposed off and accused were acquitted.

5. The petitioner is aggrieved by order passed by National Maha-Lokadalat. According to the petitioner he is concerned with the transactions. The proceedings were settle in collusion and parties in the said complaint had approached National Maha-Lokadalat.

6. Learned advocate for petitioner had submitted that National Maha-Lokadalat had no jurisdiction to entertain the settlement pursis. The order was passed without jurisdiction. The petitioner

has connection with the property which is subject matter of complaint which has been settled by respondents. The parties therein ought not to have been permitted to settle the dispute. As per provisions of Legal Services Act, the National Maha-Lokadalat has no jurisdiction to entertain such complaint considering nature of offences and the punishment provided to the said offences. The National Maha-Lokadalat has exceeded its powers. The petitioner is aggrieved party. The complainant had executed transaction with petitioner. The petitioner had parted consideration towards purchase of said property. By keeping the petitioner in dark, the complainant and respondent no.4 had connived with respondent nos.5 and 6 and settled the dispute. Relying on the provisions of Legal Services Authorities Act, 1987, it is submitted that National Maha-Lokadalat has no jurisdiction in respect of any case or matter relating to a offence not compoundable under any law. The majority of offences in the said complaint were non compoundable. By suppressing said fact, the proceedings were dropped. Petitioner could have intervened into those proceedings. Being aggrieved party he has right to intervene into those proceedings. The order is violative of Section 19 of Legal Services Authorities Act, 1987.

7. Learned advocate for petitioner has relied upon following decisions :

- (i) United India Insurance Co.Ltd. Vs. Ajay Sinha and another¹;
- (ii) Chand Devi Daga Vs. Manju K. Humatani²;
- (iii) Ashwin Nanubhai Vyas Vs. State of Maharashtra and anr³.
- (iv) Balasaheb Thackeray Vs Venkat Babru s/o Wamanrao

1 Civil Appeal No.____ of 2008 (arising out of SLP © No.17758/2005)

2 Criminal Appeal No.1860 of 2017 (arising out of SLP (Cri.) No.4580/2017)

3 1967-SCR (1)-807

Deshpande Charthankar and another⁴;

8. Learned advocate for respondent no.4 submitted that the petition is not maintainable in law. The petitioner is not concerned with impugned proceedings. The matter has been amicably settled between respondent no.4 and respondent nos.5 and 6. The petitioner was not party to the said proceedings.

9. Learned advocate for respondent nos.5 and 6 submitted that petitioner has no locus to intervene in the criminal proceedings which are settled between the parties. Assuming that National Maha-Lokadalat has no jurisdiction to entertain the proceedings, the matter is settled and the proceedings are quashed. If the complainant is not interested in pursuing the proceedings, the petitioner cannot stop her from settling the matter. He has no locus to pursue the said proceedings. The issue urged by the petitioner that National Maha-Lokadalat has no jurisdiction to entertain the proceedings is academic. No purpose would be served by restoring the proceedings.

10. The respondent no.4 have filed reply opposing the prayers sought in this petition. In the reply it is stated that the impugned order is passed in Regular Criminal Complaint No.142 of 2016 which arose from private complaint in respect of agricultural land. The complaint is filed by respondent no.4, against respondent nos.5 and 6. The petitioner has no locus standi to challenge the said order as he does not have any right, title or interest in the subject land. The agricultural land was already sold and transferred to respondent no.6 on the day of alleged agreement with petitioner. Respondent no.4

⁴ Appeal (Cri.) No.236 of 2006, dated 5-7-2006

was not the owner of land even in the year 2013 when the petitioner had allegedly approached her regarding the said land. Respondent no.6 was already in possession of said land. There is no locus standi to the petitioner to file petition. Petitioner has filed Civil Suit No.123 of 2019 against respondent nos.4,5 and 6 for specific performance and permanent injunction to prevent respondent no.6 from alienating the land in question. The application for injunction has been rejected vide order dated 20th September 2021. The appeal against said order is pending. The Court had observed in the said order that land has already been sold to respondent no.6 and the case of petitioner is devoid of merits. The case arises out of civil property dispute in which damage is entirely personal in nature. In 2013 petitioner has approached respondent no.4 with intention of acquiring said land and induced respondent no.4 to file that suit against respondent nos.5 and 6. The petitioner made respondent no.4 to believe that respondent no.6 has fraudulently acquired the land and convinced that she will still be rightful and lawful owner of the land. Petitioner was aware that 7/12 extracts and other documents were already in favour of respondent no.6. The petitioner is advocate. He offered respondent no.4 in reclaiming land from respondent no.6. Petitioner was aware that land was sold by sale deed dated 21st January 2010. Petitioner had used undue influence to obtain the release deed from other legal representatives in the name of respondent no.4 for which petitioner also provided Rs.4 lakh to conclude legal formalities. He obtained signatures of respondent no.4 on blank papers. The property was lawfully conveyed to respondent no.5 by registered sale deed dated 21st January 2010. Respondent no.6 is in physical and lawful possession of land since 1990.

11. I have perused the documents on record and the decisions relied upon by learned counsel for petitioner. The provisions of Legal Services Authorities Act does indicate that matters relating to non-compoundable cases cannot be dealt with by Lokadalat, however, contention of petitioner that he had right to intervene into the proceedings which are disposed off, is devoid of merits. The complainant has settled the dispute with respondent nos 5 and 6. By keeping the proceedings pending no purpose would be served. Learned advocate has referred to the provisions of Section 304 of Cr.P.C. Those provisions are not applicable in the present case. The decisions relied upon by petitioner to claim locus to challenge the proceedings and to intervene in the proceedings, are out of place. The petitioner cannot claim that he being interested in the transaction could intervene in the proceedings. If the complainant does not support prosecution, the petitioner in no way can pursue the proceedings. He has no locus to pursue the proceedings initiated by respondent no.4 on a private complaint, more particularly when the parties have settled the dispute. If the accused and complainant do not wish to pursue the proceedings, petitioner is not entitled to pursue the proceedings in any manner. No purpose could be achieved by reopening the proceedings. Hence, no case is made out to grant any relief prayed for in the petition.

ORDER

- (i) Criminal Writ Petition No.5315 of 2019 is dismissed.

(PRAKASH D. NAIK, J.)