

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

955 CRIMINAL APPLICATION NO.719 OF 2022

Shaikh Wasim Shaikh Sardar

..APPLICANT

-VERSUS-

1. The State of Maharashtra
2. Smt. Pallavi W/o Rameshwar Korvi

..RESPONDENTS

WITH

CRIMINAL APPLICATION NO.715 OF 2022

1. Shahnawaj Khaled Kureshi
2. Samir Khaled Kureshi
3. Naheb Rafik Kureshi

..APPLICANTS

-VERSUS-

1. The State of Maharashtra
2. Smt. Pallavi W/o Rameshwar Korvi

..RESPONDENTS

...

Advocate for Applicant : Mr.Sayyed Mudassar Sd. Nazeer
APPs for Respondent/State : Mr.S.N. Morampalle & Mr.S.D. Ghayal
Respondent No.2-Party-in-Person : Smt. Pallavi W/o Rameshwar
Korvi

...

**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 13th SEPTEMBER, 2023.**

PER COURT :-

. Heard.

2. Both these applications have been filed for quashing of the
First Information Report (FIR) being Crime No.0542 of 2021

registered with Kadim Jalna Police Station, Jalna, Tq. & Dist. Jalna for the offences punishable under sections 420, 468, 471 read with 34 of the Indian Penal Code and consequential charge-sheet, being Regular Criminal Case No.520 of 2022 pending in the Court of Judicial Magistrate, First Class, Jalna.

3. We have heard learned advocate for the applicants. Also heard respondent no.2 – in person and learned APP as well.

4. The applicants are alleged to have forged and fabricated certain sale deeds only with a view to deprive respondent no.2 of her agricultural land purchased by her under sale deed executed, before the applicants herein purchased the land.

5. The learned advocate for the applicants would submit that it is a civil matter. He relies upon the judgment of the Hon'ble Apex Court in the case of ***Randheer Singh Vs The State of U.P. and others in Criminal Appeal No.932 of 2021 and Criminal Appeal No.933 of 2021***, to submit that the High Court shall not hesitate to quash the criminal proceedings when it finds the dispute has civil flavour. He has given all the chronology of events. He has also adverted our attention to the FIR filed by the vendor of Mutha against respondent no.2 alleging that she has forged certain papers of the sale deed that was executed in favour of her vendor. In short, the submission of the learned advocate is, it being a case of civil dispute, grant of relief of quashment of the FIR and consequential charge-

sheet is warranted.

6. We do not propose to dwell at length with the submission of learned APP and respondent no.2 – in person.

7. Respondent No.2 is widow. One Premchand Mutha was original owner of 15 acres of agricultural land in Gat No.162. He sold 5 acres of land therefrom to the vendor of respondent no.2 in January, 2017. The applicants purchased remaining 10 acres of land from original owner Mutha in 2020 and even got their names recorded in the revenue record.

8. Close reading of the sale deeds of the respective parties indicate that the land that was sold to the vendor of respondent no.2 has again been a subject matter of the sale deeds executed in favour of the applicants. Same suggests intention of the applicants was mala fide. The lands which have already been purchased by respondent no.2 (widow) have again been made subject of transfer between original owner Mutha and the present applicants. Even the revenue authorities did not effect the mutation in revenue record in respect of land purchased by respondent no.2. On the contrary, the original owner Mutha appears to have lodged a FIR against vendors of respondent no.2 alleging to have forged certain pages in the three sale deeds under which respondent no.2 purchased the agricultural lands for valuable consideration. This is nothing but a cry of wolf. A clipping of daily news paper has been produced on record to indicate,

a public notice was issued by one Adv. Uday Dalavi on behalf of original owner Hemchand Mutha. It has been stated therein that the present applicants purchased the lands as against payment made by cheques. The cheques have been dishonoured. It was one of the clauses in the sale deed that if the cheques get dishonoured, the transaction would stand cancelled. Be that as it may. On due investigation of the crime, the charge-sheet has been filed. The applicants can not be said to be bonafide purchaser for valuable consideration.

9. It is reiterated that the lands which have already been purchased by widow (respondent no.2) have again been made subject of transfer between original owner and the present applicants. It needs no mention, the facts may give cause of action for civil remedy and very facts may constitute an offence. In our view, although, the facts may appear to have civil flavour, the fact, however remains, the land which was already sold to respondent no.2 has again been subject of transfer between the original owner and the present applicants. No mini trial can be conducted here at. No disputed questions of facts can be gone into.

10. In our view, rightful owner of the agricultural land (respondent no.2) was sought to be deprived/duped by executing the sale deeds in respect of the very lands. As such, there is prima facie material to proceed against the applicants. We are, therefore, not

inclined to allow these applications.

11. In the result, the applications fail. Same are dismissed.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

sga/