

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 829 OF 2020
WITH
CRIMINAL APPLICATION NO. 2425 OF 2022**

1. Mohammad Jirikoddin Mohammad Azimoddin

Age: 55 years, Occu.: Service,
R/o Loni (Khd.), Tq. Partur,
Dist. Jalna

2. Bhagwan Keshav Ghuge

Age: 57 years, Occu.: Service,
R/o Shriram Colony, Sailu,
Tq. Sailur, Dist. Parbhani

3. Vinod Vithalrao Gundamwar

Age: 40 years, Occu.: Service,
R/o Vithalkrupa Yeshovihar,
Wadi Bk., Tq. & Dist. Nanded

..APPLICANTS

VERSUS

1. State of Maharashtra
Through Police Inspector,
Police Station, Partur,
Tq. Partur, Dist. Jalna

2. Rangnath Haribhau Bahire

Age: 60 years, Ocu.: Agri.,
R/o Landkadar, Tq. Partur,
Dist. Jalna

..RESPONDENTS

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Mr. R.J. Nirmal, Advocate for applicants

Mr. P.G. Borade, A.P.P. for respondent no.1 – State

Mr. N.L. Jadhav, Advocate for respondent no.2

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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 11th JANUARY, 2023

PER COURT :

1. By this application under Section 482 of the Code of Criminal Procedure, these applicants, who are the original accused nos. 2, 1 and 4 respectively, have sought to quash the F.I.R. bearing C.R. No. 20 of 2018 registered at Ashti Police Station, Dist. Jalna for the offences punishable under Sections 420, 468, 471, 467 read with Section 34 of the Indian Penal Code.

2. Heard learned counsel for the applicants, learned A.P.P. and learned counsel for Respondent No.2. We have perused the records and considered the submissions advanced by learned counsel for the respective parties.

3. Applicant No.1 was Talathi, Applicant No.2 was Circle Inspector and Applicant No.3 was Tahasildar of Tahsil Partur. Respondent No.2 herein had lodged a complaint alleging that the applicants herein have carried out Mutation Entry No. 1057 pursuant to the order dated 08th September, 2014 passed by Tahsildar and confirmed by S.D.O. on 26th March, 2015. The grievance of the Respondent No.2, as disclosed from the F.I.R., is that the applicants had misinterpreted the compromise. It is further stated that they had not issued notice to Respondent No.2 before effecting the said mutation entry. It is stated that the said land belongs to Respondent No.2 despite

which the applicant herein entered the name of Applicant No2 - Bhagwan (Accused No.1) in land records though he had absolutely no right, title and interest in the said property. It is stated that these applicants have created false documents and have also cheated the complainant.

4. It is pertinent to note that said Bhagwan had filed an application dated 14th March, 2014 with Applicant No.3 for implementation of compromise decree. Accordingly, Applicant No.3 passed order dated 08th September, 2014 under Sections 147, 148, 149 and 150 of the Maharashtra Land Revenue Code. The said order was assailed before the S.D.O. (Revenue), Partur by filing appeal No. 52 of 2014. The S.D.O., vide order dated 26th March, 2015 confirmed the order dated 08th September, 2014 passed by Applicant No.3. It is on the basis of these two orders, the mutation entry was effected. The record indicates that subsequently the order passed by the S.D.O. was challenged before the Additional Collector, who had reversed the order passed by the S.D.O. and Tahasildar. The said order was confirmed by the Additional Divisional Commissioner, Aurangabad as well as by the Revenue Minister. Pursuant to the said orders, the mutation entry is deleted and original entry is restored.

5. The records reveal that the Applicant No.1 herein had only implemented the order passed by Tahasildar and confirmed by the S.D.O.

Mere implementation of the order does not constitute an offence. The record do not make out any case of cheating within the meaning of Section 415 of I.P.C. The F.I.R. as well as the material placed on record does not indicate that the applicants herein had forged any document as to constitute offence under Section 468 or 471 of the I.P.C. Needless to state that error if any in passing the order or misinterpretation of any order would not constitute any offence much less of offence under Section 420 of the I.P.C. Hence, in our considered view, the case is covered by category 1 and 3 of the guidelines laid down by the Apex Court in ***State of Haryana Vs. Bhajan Lal and Others, 1992 AIR 604***. Under these circumstances, we are of the view that continuation of these proceedings would be sheer abuse of process of the Court.

6. Hence, the application is allowed in terms of prayer clause (B) qua these applicants. Consequently, F.I.R. bearing C.R. No. 20 of 2018 registered at Ashti Police Station, Dist. Jalan for the offences punishable under Sections 420, 468, 471, 467 read with Section 34 of the Indian Penal Code stands quashed qua the present applicants. Criminal Application No. 2425 of 2022 stands disposed of in view of disposal of main application,.

(R.M. JOSHI, J.)

SSD

(SMT. ANUJA PRABHUDESSAI, J.)