

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

CRIMINAL WRIT PETITION NO. 479 OF 2021

1. Narendrakumar Kanhaiyalal Jangde
Age: 70 years, Occu.: Business,
2. Indirabai Narendrakumar Jangde
Age: 63 years, Occu.: Business,
3. Tarun Narendrakumar Jangde
Age: 23 years, Occu.: Education,

All R/o Sambhaji Nagar, Jalna, Dist. Jalna

..PETITIONERS

VERSUS

1. State of Maharashtra
Through its P.I.
Police Station, Kadim Jalna,
Dist. Jalna
2. Manoj Dilipkumar Jangde
Age: 28 years, Occu.: Business,
R/o M.G. Road, Near Alankar Talkies,
Kadim Jalna, Dist. Jalna

..RESPONDENTS

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Mr. B.A. Darak, Advocate for petitioners
Mr. A.R. Kale, A.P.P. for respondent no.1 – State
Mr. S.S. Bora, Advocate for respondent no.2

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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ
DATE : 07th JUNE, 2023**

ORAL JUDGMENT (PER: R.G. AVACHAT, J.) :

1. Rule. Rule made returnable forthwith. Heard finally with consent of learned counsel for the parties.

2. This petition, under Article 226 of the Constitution of India, has been filed for quashing of First Information Report ('F.I.R.') being C.R. No. 0571 of 2020 registered with Kadim Jalna Police Station, Dist. Jalna for the offences punishable under Sections 420, 467, 468, 471 read with Section 34 of the Indian Penal Code and consequential proceeding in Regular Criminal Case No. 120 of 2021 pending on the file of the Court of Judicial Magistrate First Class, Jalna.

3. Gist of the prosecution case is as under -

Late Kanhaiyalal was the common ancestor. Narendrakumar (Petitioner No.1/Accused No.1) and late Dilipkumar were the real brothers. Late Kanhaiyala was their father. House property, being C.T.S. No. 10606 situated at Jalna was standing in the name of late Kanhaiyalal in the city survey record. Thereafter, names of both, Narendrakumar and Dilipkumar came to be recorded in the property card of the said property. Their names continued to appear in the said record for little over twenty years. Dilipkumar passed away on 23rd April, 2016. All of a sudden name of Dilipkumar came to be deleted from the property card of the said property. On 02nd August, 2020, Petitioner No.1 – Narendrakumar executed a gift deed of the said property in favour of his wife and son (Petitioner Nos.2 and 3/ Accused Nos.2 and 3 respectively).

4. Manoj, son of Dilipkumar, when inspected the property card of the said property, realised the said change. He took search but could not get any

document as to on the basis of which name of Dilipkumar came to be deleted. Since he realised that Applicant No.1 – Narendrakumar has taken advantage of his exclusive name appearing in the property card and executed a gift deed in favour of his wife and son, Manoj lodged the F.I.R. alleging the petitioners to have conspired together to commit forgery of the document in the nature of valuable security so as to delete the name of Dilipkumar from the property card of the said property and deprived the legal heirs of Dilipkumar of right, title and interest in the said house property. On due investigation, charge-sheet has been filed against the petitioners herein.

5. Learned counsel for the petitioners would submit that Petitioner No.1–Narendrakumar has been in exclusive possession of the said house property for over twenty years. He has constructed a new house. The informant and all other brothers were quite aware of the said construction and exclusive possession of Petitioner No.1 therein. None of them took any objection. The family has number of properties. The petitioners could not be said to have deprived the informant of his right in the joint family properties. He would further submit that Petitioner Nos.2 and 3 are the donees under the gift deed. There is no material to indicate the petitioners to have committed any alleged offence. Learned counsel, therefore, urged for allowing the petition.

6. Learned counsel for the informant and learned A.P.P. would, on the other hand, submit that name of father of the informant was appearing in the

property card of the house property for over twenty years. His name came to be abruptly deleted. Name of the informant, being Class I heir, ought to have been recorded in the property card of the said property. Petitioner No.1 did not inform the city survey authorities to record names of legal heirs of Dilipkumar. With a view to deprive the informant and other legal heirs of Dilipkumar of their rights in the suit property, Petitioner No.1 executed a gift deed in favour of his wife and son. Both these beneficiaries, under the gift deed, were in the know that the said property belongs to Petitioner No.1, deceased – Dilipkumar and others. According to learned counsel, facts and circumstances of the case prima facie indicate the petitioners to have involved in the criminal activities, for which they are proposed to be prosecuted since on investigation, charge-sheet has been filed.

7. Considered the submissions advanced. Perused the F.I.R. and the related police papers. The documents relied on by the petitioners herein could not be looked into in this proceeding. In case of ***State Vs. M. Maridoss and Another, (2023) 4 SCC 338***, the Supreme Court has observed thus :-

“8. Even otherwise, it is a settled position of law that while exercising powers under Section 482 Cr.PC., the High Court is not required to conduct the mini trial. What is required to be considered at that stage is the nature of accusations and allegations in the F.I.R. and whether the averments/allegations in the F.I.R. prima facie disclose the commission of the cognizable offence or not.”

8. The names of Petitioner No.1 – Narendrakumar and his brother, late Dilipkumar were appearing in the property card of the house property, being C.T.S. No. 10606 for little over twenty years. The other two petitioners are presumed to be in the know of the same status of the property card. All of a sudden name of Dilipkumar came to be deleted from the property card. The petitioners are aware that Dilipkumar is survived by Class I heirs, including informant – Manoj. On 02nd August, 2018 Petitioner No.1 (whose name continued to be appearing in the property card) executed a gift deed of the house property in favour of his wife and his son, Petitioner Nos. 2 and 3 respectively. The informant has, therefore, every reason to come with a case that the petitioners, in furtherance of their common intention, forged certain documents to ensure deletion of name of Dilipkumar from the property card of the said property and with a view to deprive Dilipkumar's Class I heirs of their rights in the said property, executed a gift deed. On due investigation of the crime, the charge-sheet has been filed against the petitioners. From the facts and circumstances of the case and the papers of investigation it has to be assumed that there is prima facie material to proceed against the petitioners. It is not a case of abuse of process of Court. Interest of justice would be defeated if the petition is allowed.

9. In the result, petition fails. Rule is discharged.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

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