

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

955 CRIMINAL WRIT PETITION NO.836 OF 2022

SANDIP MURLIDHAR KATE
VERSUS
SHOBHA VIJAYKUMAR SHELKE AND OTHERS

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Advocate for Petitioner : Mr. Y.V. Kakade
Advocate for Respondents no.1, 3 & 5 : Mr. Ganesh P. Darandale
Advocate for Respondent No.2 : Mr. Dinesh U. Manwatkar h/f.
Mr. S.S. Randive

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CORAM : R. M. JOSHI, J.
DATE : JULY 26, 2023

PER COURT :

. This petition takes exception to the order of dismissal of Complaint bearing O.M.A. No.216 of 2018 dated 01.04.2022 passed by Judicial Magistrate First Class, Pathardi. It is the contention of petitioner that he had purchased properties in question being Plot No.58/9 and 58/10 from City Survey No. 9/1 in the year 2014 from legal representatives of original owners namely Satyanarayan and Shivnarayan. It is allegation of the present petitioner that in spite of said sale transaction with the present petitioner in the year 2014, the constituted attorney of the original owners has executed the sale-deed in favour of respondent no.1 - Shobha, who in turn has sold the

properties to respondents no. 4 and 5. It is therefore contention of petitioner that the offence under Section 420 of the Indian Penal Code has been committed against him.

2. Perusal of the record indicates that in the year-2014 the properties in question were purchased by present petitioner from legal representatives of aforesaid persons. As far as the transaction in dispute in the year 2019 is concerned, it is alleged that the constituted attorney of the original owners executed sale-deed in favour of Shobha. If it is so, then the said Shobha would be the victim and that she should be so treated as she was induced to pass on the consideration on the basis of the false statement made by the constituted attorney of the original owners and also by suppression of the fact that the property was already sold to present petitioner. As far as the present petitioner is concerned, neither there is any inducement to him for delivery of any property or any valuable security for the purpose of executing the said transaction. At the most, it can be said that subsequent purchasers are the victim and against whom any offence could be said to have been committed provided they complained about it. There is no dispute between the

subsequent purchaser and the vendor of the document of year - 2019.

3. Though some complications are created by virtue of the said document as far as the present petitioner's right to the extent of these properties is concerned, however that cannot be constituted as an offence under Section 420 of the IPC vis-a-vis present petitioner. Hence, there being no infirmity in the impugned order, petition deserves to be dismissed and is accordingly dismissed.

[R. M. JOSHI]
JUDGE

GGP