

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

CRIMINAL APPLICATION NO. 2357 OF 2020

Premchand s/o. Ganesh Kala
and ors.

..Applicants

Vs.

The State of Maharashtra
and anr.

..Respondents

Mr.O.B.Boinwad, Advocate for applicants

Mr.A.R.KAle, APP for respondent nos.1 and 3

Mr.R.G.Nirmal, Advocate h/f. Mr.S.S.Gangakhedkar, Advocate for
respondent no.2

CORAM : SMT. ANUJA PRABHUDESSAI

AND R.M.JOSHI, JJ.

DATE : JANUARY 17, 2023

PER COURT :-

Heard finally with the consent of learned counsel for the parties.

2. This is an application under Section 482 of the Code of Criminal Procedure for quashing FIR bearing Crime No.0222 of 2020 registered with Tamsa Police Station, Tq. Hadgaon, Dist. Nanded, for the offences punishable under Sections 120-B, 420, 471, 467, 468, 504 and 506 of Indian Penal Code.

3. Heard learned counsel for the applicants, learned APP for respondent nos.1 and 3 and learned counsel for respondent no.2. We have perused the record and considered the submissions advanced by learned counsel for the respective parties.

4. The aforesaid crime was registered pursuant to the FIR lodged by respondent no.2. A perusal of the FIR reveals that there is a civil dispute between the applicants and respondent no.2 in respect of the property in survey no.1 of village Tamsa. It is stated that on 30.08.1958, Mahemood Alikhan Mohd. Alikhan had sold a portion of the land from survey no.1 in favour of one Vitthal Wani, pursuant to which, mutation entry has been effected in favour of Vitthal Wani.

5. The respondent no.2 claimed that the then Talathi, due to oversight, had deleted the name of Mahemood Khan in respect of the remaining land in survey no.1 from the revenue record. The respondent no.2 has stated that the wrong entry was made in the survey records in collusion with the then Sarpanch and Gramsevak. It is alleged that the Sarpanch and Gramsevak have passed a

resolution to construct a W.C. in the said property. It is stated that the informant had raised objection for such unauthorised construction. It is stated that in view of the objections raised by the respondent no.2, the construction of W.C. was stalled for some days. The respondent no.2 stated that he has learnt that the said portion of land has now been leased to the applicants herein and they have started R.C.C. construction in the same.

6. The FIR refers to the execution of sale deed and the entries made in the revenue record in the year 1958. The FIR itself indicates that the name of the respondent no.2 was deleted due to oversight. The FIR, even if accepted at its face value, does not disclose commission of any offence much less cognizable offence. It is stated that a civil suit is pending between the parties. It is evident that the respondent no.2 has given colour of criminal case to the pending civil dispute. Lodging of the FIR is nothing but an abuse of process of the Court.

7. In the circumstances, the application is allowed in terms of prayer clause (C). Consequently, FIR bearing Crime No.0222 of 2020 registered with Tamsa Police Station, Tq. Hadgaon, Dist.

Nanded, for the offences punishable under Sections 120-B, 420, 471, 467, 468, 504 and 506 of Indian Penal Code, stands quashed.

[R.M. JOSHI, J.]

[SMT. ANUJA PRABHUDESSAI, J.]

KBP