

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO.2424 OF 2020

Rajabhau @ Rajendra S/o Digambar Mane,
Age 49 years, Occup. Social Work And Business,
R/o Hudco, Tuljapur, District Osmanabad. ... **Applicant**

Versus

1. The State of Maharashtra,
Through: The Police Inspector,
Tuljapur Police Station, Tuljapur,
Ta. Tuljapur, District Osmanabad.
2. Shri. Kishor S/o Dilip Parve,
Age:30 Years, Occup. Agri, / Business,
R/o : Arali Bk.,
Ta. Tuljapur, District: Osmanabad. ... **Respondents**

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Mr. Adinath B. Jagtap, Advocate for Applicant.
Mrs. Vaishali S. Choudhari, APP for Respondent No.1 / State.
Mr. Kishor J. Ghute Patil, Advocate for Respondent No.2.

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CORAM : **R. G. AVACHAT and
SANJAY A. DESHMUKH, JJ.**

DATE : 09th August, 2023.

ORDER: (Per Sanjay A. Deshmukh, J.)

- 1 Heard the learned advocates for the respective parties.
- 2 This is an application, under Section 482 of the Code of

Criminal Procedure, 1973, for quashment of FIR No.0052 of 2020 dated 12th February, 2020, registered with Tuljapur Police Station, District Osmanabad, for the offences punishable under Sections 420, 464, 467, 468 and 471 read with 34 of the Indian Penal Code, 1860 and the consequential charge-sheet filed in the Court of learned Judicial Magistrate First Class, Tuljapur, for the offences punishable under Sections 420, 464, 467, 468 and 471 read with 34 of the Indian Penal Code, 1860.

3 The informant averred in the FIR that the property bearing plot No.64 out of survey No.52 situated at Tuljapur, was purchased by his father from Abasaheb Balbhim Bidkar by the sale-deed dated 21st May, 2015. Accordingly, the name of his father was mutated to the record of rights of the said plot. His father died on 16th October, 2017. After the death of the father of informant, his name alongwith his two sisters was to be recorded to the record of rights of the said plot. That time, he came to know that the applicant's name was recorded to the record of rights of the said plot. Then the informant saw the mutation entry No.1017, which was effected as per the sale-deed dated 29th October, 2015 executed by Abasaheb Balbhim Bidkar in favour of the applicant. The said mutation entry was effected illegally. Therefore, the informant approached to the Police Inspector, Tuljapur and Superintendent of Police, Osmanabad, and filed written complaint.

The FIR was lodged against the applicant, seller Abasaheb Bidkar and others.

4 The learned counsel for applicant argued that the applicant is falsely implicated in this crime. He has purchased the disputed property from the original owner. He was not knowing about the selling of the property to the father of the informant. He had taken care while taking search of the documents of the said property. His name was entered immediately after execution of the sale-deed. This is a dispute of civil nature. If the applicant is compelled to face the trial, it would be abuse of process of the Court. He lastly prayed to allow the application by quashing the FIR and the consequential charge-sheet.

5 The learned APP for the State and the learned counsel for the informant strongly opposed the application. They argued that the sale-deed executed by Abasaheb Bidkar in favour of the father of informant was earlier in time. The applicant is a social worker having knowledge of all the properties in that area. He deliberately purchased the said property. It is lastly prayed to reject the application as there is serious *prima-facie* case against the applicant.

6 Perused the FIR and the charge-sheet. Perusal of the FIR

itself shows that the sale-deed was executed in favour of the father of informant on 21st May, 2015 and the sale-deed was executed in favour of the applicant on 29th October, 2015. Only because the name of the applicant is entered to the record of rights of the disputed property, his subsequent sale-deed, which is *ab-initio* void cannot sustain. It shows his criminal dishonest intention of executing it fraudulently. This is sufficient to proceed against the applicant with the trial. Thus, *prima-facie*, there is strong material against the applicant. The argument of the learned counsel for applicant is, therefore, not acceptable. The application, therefore, deserves to be rejected.

7 The application is rejected. No costs.

[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]

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