

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

CRIMINAL WRIT PETITION NO.1801 OF 2017

**VIKAS PUNA YEOLE
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

...

Mr. A. G. Talhar, Advocate for the Petitioner.
Ms. V.N. Patil - Jadhav, APP, for the Respondent –
State.

...

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

DATE : FEBRUARY 21, 2023

PER COURT :

1. This is a Petition under Article 226 of the Constitution of India to quash the R.C.C. No. 101/2017 pending on the file of Chief Judicial Magistrate, Jalgaon for the offences punishable under Sections 420, 468 & 471 of the Indian Penal Code.

2. Mr. A. G. Talhar, learned Counsel for the Petitioner, submits that the Petitioner was only a witness to the agreement for sale transaction. He submits that Petitioner is not involved in committing any crime. He submits that the contents of the FIR and other material on record, even if accepted as true and considered in their entirety, do not disclose any

cognizable offence as against Petitioner.

3. *Per contra*, learned APP, submits that the Petitioner herein has signed the agreement for sale and as such, the crime has been rightly registered against him. She submits that this is not a fit case to exercise discretion in favour of the Petitioner and/or to quash the proceedings in exercise of powers under Article 226 of the Constitution of India or Section 482 of Cr.P.C.

4. We have perused the records and considered the submissions advanced by learned Counsel for respective parties.

5. The records reveal that on 22.12.2014 the Respondent No. 2 - Tehsildar lodged a complaint alleging that on 19.03.2010 the co-accused Nikhil Patil had entered into an agreement with Govind Punju Zatake to purchase an agricultural land bearing Gut No. 2138 having area of 1H 42R. It is alleged that in terms of Section 43 of the Bombay Tenancy and Agricultural Lands Act, the purchaser could have purchased the land only if he were an agriculturist. It is stated that the co-

accused Nitin Patil had enclosed 7/12 extract of Gut No. 784 of village Bhatkhande showing that he is the owner of the property. It is stated that the said 7/12 extract was a forged document and that Circle Officer has given a report to that effect. On this basis of these allegations the aforesaid crime came to be registered.

6. It is pertinent to note that the first information report as well as the other material collected in the course of investigation do not in any manner indicate that the Petitioner herein was involved in fabricating 7/12 extract in respect of Gut No. 784. He had only signed the agreement for sale in the capacity of a witness to the execution of the document. He is not privy to the contents of the document. There is no allegation that he identified wrong person as this is not case of impersonation. There is absolutely no material on record to indicate that the applicant was involved in making a false document or that he was aware that the 7/12 extract was a forged and fabricated document. We have no hesitation to hold that the case of the Applicant is covered by categories (1) and (3)

carved out by the Hon'ble Supreme Court in State of Haryana and Others Vs. Bhajan Lal and Others, 1992 SCC (Cri) 426. Hence, continuation of criminal proceedings against him would amount to nothingelse but a abuse of the process of law.

7. In the result, the Petition is allowed in terms of prayer clause 'B'. As a consequence, R.C.C. No. 101/2017 pending on the file of Chief Judicial Magistrate, Jalgaon for the offences punishable under Sections 420, 468 & 471 of the Indian Penal Code is hereby quashed qua the Petitioner.

(R.M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J)