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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.229 OF 2019
AND
INTERIM APPLICATION NO.2982 OF 2023
IN
CRIMINAL APPEAL NO.238 OF 2019

Fajle Rahim Abdul Latif Khan	]	..	Appellant
vs.			
Dy. Superintendent of Police	]		
Dadra and Nagar Haveli, Silvassa & Anr.	]	..	Respondents

Mr.Bhavesh Parmar a/w Devmani Shukla, Rajesh Sahani and Reshma Nair for the Appellant.

Mr.H.S. Venegavkar a/w Vishal Rathod for Respondent No.1.

Mr.Surel Shah a/w Hardik Joshi i/b Mandar Soman for Complainant.

CORAM : BHARATI DANGRE, J

DATE : 31st October, 2023.

P.C.

1] Heard the learned counsel Mr.Bhavesh Parmar for the Appellant and Mr. Venegaonkar, for Respondent No.1.

Perusal of the Appeal would disclose that the interim protection is enjoyed by the Appellant, ever since 10.04.2019, where the case of the prosecution is recorded to the effect that the complainant filed a

complaint before the JMFC, Silvassa, alleging that they have been deprived of their lands by cheating and the Appellant has agreed to purchase the land and hence on the basis of the complaint, an order was passed under Section 156(3) of the Cr.P.C. Pursuant to it, the subject Crime No.77/2013 was registered invoking section 403, 405, 409, 415, 420, 422, 423, 467, 471, 323, 504, 506, 120B of the IPC alongwith Section 3(1)(iv), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The Appellant was released on bail by the Sessions Court, Silvassa on 22.10.2023.

It is recorded in the order that two civil suits are pending between the parties and by way of ad interim relief in the peculiar facts placed before the Court, the Appellant was directed to be enlarged on bail and this order continue till date.

While releasing the Appellant on bail, he was directed to report to the Investigating Officer on every Saturday between 10.30 a.m. to 1.00 p.m. and render his cooperation to the best of his capacity.

2] Interim Application No.2982/2023 is taken out by the complainant seeking recall of the said order, on the ground that there is breach of condition No.2.

The submission advanced on behalf of the complainant is that, the copies of the Will which are alleged to have been forged are not tendered by the accused before the Investigating Officer.

Mr. Venegavkar, also join in making this grievance as he would submit that the Appellant has failed to produce copies of the Will.

3] In any case, the condition imposed upon the Appellant while releasing him on bail expected him to render cooperation to the investigating agency to the best of his capacity and if it is his stand that he is not in possession of the documents, he surely cannot be compelled to produce them and its not production cannot be construed as breach of the order.

In any case, considering the fact that the Appellant is on bail since the year 2013 and charge sheet having been filed, and ultimately the charges will have to be established by the prosecution, when he is tried for the offences, with which he is charged.

4] In the wake of aforesaid statement, the order dated 10.04.2019 is made absolute.

For the above reasons, Interim Application No.2982/2023, do not deserve any consideration, hence, it is dismissed.

5] Mr.Venegavkar, would also submit that in absence of the document, the charge sheet is not filed yet. He shall instruct the concerned Investigating Officer to conclude the investigation and file the charge sheet either, with or without the the said document as the CR is of the year 2017.

6] In the wake of above, Interim Application No.2982/2023, Criminal Application No.229/2019 and Criminal Appeal No. 238/2019 stand disposed off.

[BHARATI DANGRE, J]