

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 936 OF 2022

Mr. Siddhesh Chandrakant Keny	..Petitioner
Versus	
The State of Maharashtra & Anr.	.. Respondents

Mr. Kishore Patil i/b. Mr. Sameer Mhatre for Petitioner.
Ms. M. H. Mhatre, APP for Respondent/State.
Mr. Sandeep Barve i/b. B. K. Barve & Co. for the Respondent No. 2

**CORAM : NITIN W. SAMBRE &
SHARMILA U. DESHMUKH, JJ**

DATED : 13th JUNE, 2023

P.C.:

1. Heard.
2. The Petitioner came to be charge-sheeted for an offence punishable u/s. 420, 465, 467, 468, 471 r/w. 34 in Crime No. 139 of 2019.
3. The case of the prosecution against the Petitioner is that the Complainant - Rupa, on 24/05/2019, alleged that the subject matter of the property viz. plot area was given in possession of the Petitioner. However, the grandfather of the Petitioner forged the documents (by putting forged thumb impression) and has created right in the said property thereby further having eligibility under the SRA scheme in his favour.

4. As far as the aforesaid claim of the Complainant is concerned, same appears to have investigated into and based on the report of the handwriting expert, the Petitioner came to be charge-sheeted.

5. The fact remains that the document which is formed to be the basis for registration of the offence was neither authored by the Petitioner nor the fact about such document being forged was sought to be used by the Petitioner inspite of having such knowledge for the purpose of commission of the offence in question can be inferred from the investigation paper. At least the Complainant i.e. the Respondent herein so also the learned APP is not in a position to demonstrate the very satisfaction of the ingredients of section under which the Petitioner is charge-sheeted.

6. The entire dispute appears to be civil in nature as the Complainant herself admitted that the Petitioner was in possession of the property and since long the Petitioner was inducting tenants in the property.

7. In the aforesaid eventuality satisfaction of the necessary ingredients for the offence punishable u/s. 420, 465, 467, 468, 471 r/w 34 of IPC cannot be inferred against the Petitioner.

8. Apart from above, for the alleged act of forgery as has been committed by the grandfather of the Petitioner, the Petitioner cannot be said to have inherited the criminal liability and to face the prosecution in question.

9. That being so, the prosecution of the Petitioner in our opinion is not only false one but also the same is on the basis of the existence of civil dispute.

10. Drawing support from the judgment of the Apex Court in the matter of *State of Haryana & Ors. vs. Ch. Bhajan Lal & Ors.* reported in *AIR 1992 SC 604*, we deem it appropriate to allow the Petition. The charge-sheet filed against the Petitioner for the offence punishable u/s. 420, 465, 467, 468, 471 r/w. 34 of IPC in Crime No. 139 of 2019 is hereby quashed.

11. The Petition stands allowed in the above terms.

(SHARMILA U. DESHMUKH, J)

(NITIN W. SAMBRE, J.)