



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 222 OF 2020

Raveendra Ramesh Bharde

... Petitioner

VERSUS

The State Of Maharashtra
And Others

... Respondents

.....

Mr. Dhananjay B. Thoke, Advocate for the Petitioner

Mr. B.R. Waramaa and Mr. M.G. Kochar, Advocate for
Respondent No.2

Mr. S.D. Ghayal, APP for Respondents – State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 24th JANUARY, 2024

ORDER :

1. Respondent No.2 filed a private complaint against respondent No.3 and the petitioner alleging that land bearing Gut Nos.795/1B and 2B admeasuring 74 R (for short, 'suit land') is owned by the third respondent. On 08.05.2013, the third respondent entered into an agreement of sell of the said suit land for consideration of Rs.2,00,000/-. He paid earnest amount of Rs. 1,50,000/- by cheque and remaining Rs.50,000/- was to be paid at the time of sale deed. The agreement to sell is registered with Sub Registrar. Though he was always ready and willing to perform his part of contract, the second respondent was avoiding to execute the sale deed.

Hence, he filed Regular Civil Suit No.58 of 2014 for specific performance of contract. On 22.08.2014, he also registered a notice of *lis pendens* with Sub Registrar, Dhule. The suit land was acquired by the Government. The second respondent, after issuance of notice of acquisition, filed objection staking claim about compensation amount. An award bearing No.4 of 2013 was passed on 04.08.2016 by petitioner. After passing of the award, Government deposited land acquisition compensation of Rs.40,79,133/-. The second respondent informed petitioner regarding pendency of suit for specific performance of contract and his right to receive amount. However, ignoring his legal objection, petitioner has illegally paid the amount to the second respondent/accused No.1. It is therefore claimed that both the accused persons were hand in glove and they have committed forgery of documents for the purpose of cheating and the amount of compensation was fraudulently withdrawn.

2. Learned Magistrate issued process only against respondent No.3/accused No.1 and dismissed the complaint against petitioner/accused No.2, under section 203 of the Code of Criminal Procedure.

3. Respondent No.2 challenged the order of dismissal of complaint against petitioner by filing criminal revision No.143 of 2017. Revisional Court, after hearing the parties, set aside the order of dismissal under section 203 of the Code of Criminal Procedure against petitioner/accused No.2, and directed learned Magistrate to consider the matter afresh against petitioner/accused no.2, without being influenced by any observations made in the order. The petitioner is aggrieved by this order.

4. Heard learned advocate for petitioner, learned advocate for respondent No.2 and learned APP for respondent No.1 – State.

5. Perusal of the impugned order shows that Revisional Court has set aside the order of dismissal of complaint against petitioner, under section 203 of the Code of Criminal Procedure, as while passing said order no reasons were assigned by learned learned Magistrate and as the said order is non speaking and cryptic. Approach of learned Revisional Court is in consonance with the settled legal position and no fault can be found with the same.

6. Learned Sessions Judge has only remanded the matter back for fresh consideration to the Trial Court. Therefore, this Court does not want to enter into the merits of the matter. No interference in the impugned order is called for.

7. Writ petition is therefore disposed of by granting liberty to petitioner to approach learned Magistrate and oppose for issuance of process against him.

[NITIN B. SURYAWANSHI]
JUDGE

S.P Rane