



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

922 CRIMINAL WRIT PETITION NO. 330 OF 2023

SUBHASH MURLIDHAR KADAM

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Mr. Salunke Vasant Digambarrao

APP for Respondent/State : Mrs.M.L. Sangit

Advocate for Respondent nos.2 to 4 : Mr. Deshmukh Vivekanand B.

...

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 8th August, 2024.

P.C.:

1. By this writ petition, the petitioner is challenging the judgment and order dated 17th December, 2022 passed by the Sessions Judge, Osmanabad in Criminal Revision Application No.5 of 2022 as well as the order dated 9th December, 2021 passed by the Judicial Magistrate, First Class, Osmanabad (for short "trial Court") below Exhibit-1 in Criminal Misc. Application No.294 of 2019.

2. It is contention of the learned counsel for the petitioner that the father of the petitioner Murlidhar Kadam died on 11th January, 2017. Therefore, the petitioner had filed application before the Grampanchayat of Tadavala (K) for getting the heirship certificate and all the heirs are recorded on that heirship certificate, respondent nos.2 to 4 in collusion with each other made fake and forged heirship certificate. The heirship certificate is prepared by creating fake document and on the said heirship certificate stamp of Sarpanch is

used and it is signed by Up-Sarpanch, which is not permitted by law. The learned counsel further submitted that the petitioner met respondent nos.2 to 4 on 19th March, 2019 and confronted about the issuance of false heirship certificate, but respondent nos.2 to 4 abused the informant and assaulted him with fist and kick blows. The learned counsel further submitted that thereafter, the petitioner filed private complaint before the trial Court for issuance of process against respondent nos.2 to 4 under sections 323, 504, 506, 420, 467, 468, 471 read with 34 of the Indian Penal Code (For short, "I.P.C."), but the trial Court has passed the issue process order under sections 323, 504, 506 read with 34 of I.P.C. and complaint under the offences punishable under sections 420, 467, 468 and 471 of the I.P.C. is dismissed, which is erroneous. The learned counsel further submitted that as respondent nos.2 to 4 have prepared the false heirship certificate, the trial Court should have issued process under the above sections, hence requested to allow the writ petition.

3. It is contention of the learned counsel for respondent nos.2 to 4 that heirship certificate is to be issued by the Tahsildar on the information provided by respondent nos.2 to 4. The learned counsel further submitted that in the heirship certificate issued by respondent nos.2 to 4, the names of heirs of father of the petitioner are mentioned. As the Sarpanch was not available hence Upsaranch signed on it. The trial Court and Revisional Court have passed the well reasoned orders.

No interference is required in it and requested to dismiss the writ petition.

4. It is contention of the learned APP that the appropriate order be passed.

5. I have heard all the learned counsel. Perused the orders passed by the trial Court and Revisional Court.

6. While passing the order, the Revisional Court has observed that there are two certificates issued with different information, but it is for the Tahsildar to issue certificate by verifying the contents. The certificate is issued only on the information provided to respondent nos.2 to 4, which can be challenged as illegal and incorrect before the authority issuing succession certificate. No deliberate act on the part of respondent nos.2 to 4 is seen in issuing documents mentioning names of heirs. Hence, offences punishable under sections 420, 467, 468 and 471 of the I.P.C. do not get attracted. I do not find any infirmity in it. In my view, respondent nos.2 to 4 have not committed act as alleged by the petitioner. In view of the above, I pass the following order :-

ORDER

(i) Writ petition is dismissed.

[SHIVKUMAR DIGE, J.]