



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

923 CRIMINAL WRIT PETITION NO. 652 OF 2023

CHANDRAPRABHA W/O. KASHIRAM KHANDARE
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for the Petitioner : Mr. Borulkar Avinash R.

APP for Respondent/State : Mr. Pravin S. Patil

Advocate for Respondent no.2 : Mr. Dheple Shantaram Ravji

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CORAM : **SHIVKUMAR DIGE, J.**

DATE : 8th August, 2024.

P.C.:

1. By this writ petition, the petitioner is challenging the order dated 22nd February, 2023 passed by the Additional Sessions Judge, Aurangabad in Criminal Revision Application No.168 of 2021.

2. It is contention of the learned counsel for the petitioner that the respondent no.2 had filed application for further investigation. The said application was rejected by the Judicial Magistrate First Class, Aurangabad (for short, "the trial Court"). Thereafter, revision application was filed against the said order before the Sessions Judge, Aurangabad. The learned Sessions Judge has allowed the said revision and directed further investigation by the Investigating Officer. The learned counsel further submitted that in the present matter, the investigation is completed, charge-sheet has been filed and charges are framed against the petitioner. The issue raised in the application below Exhibit-22 are already produced with the charge-sheet but these

facts are not considered by the Additional Sessions Judge and has passed the impugned order without considering the documentary evidence on record and requested to allow the writ petition.

3. It is contention of the learned counsel for respondent no.2 that respondent no.2 has filed complaint against the petitioner under sections 420, 468, 448, 504, 506 and 201 of the Indian Penal Code. The respondent had filed application before the trial Court for further investigation as no original record in respect of disputed land was produced by CIDCO along with the charge-sheet nor the statement of any person from the CIDCO office is recorded by the Investigating Officer. The learned counsel further submitted that no original record of stamp vendor was produced before the trial Court and no documents in respect of handwriting of father of respondent no.2 was produced before the trial Court along with the charge-sheet. Considering the documentary evidence on record the Revisional Court has passed the well reasoned order. No interference is required in it and requested to dismiss the writ petition.

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

5. I have heard all the learned counsel. Perused the impugned order passed by the Sessions Court.

6. While passing the order, the Sessions Judge has observed that the trial Court has rejected the application on the ground that it is not maintainable and case is pending more than five years. The Sessions Judge further observed that it is matter of record that there is no material collected by the concerned Investigating Officer. Considering the nature of the allegations in the F.I.R., it is necessary to collect the said material by the Investigating Officer. On that ground, the Sessions Court set aside the order passed by the trial Court and has directed for further investigation. I do not find any infirmity in it.

7. In my view, page 47 of the petition shows that letter was issued by the Investigating Officer to the Administrator, CIDCO and in pursuance of the said letter, the CIDCO office has produced the documents in respect of disputed land before the Investigating Officer, but the Investigating Officer has not recorded the statement of the concerned Officer. In respect of allegations of producing the original record of stamp vendor no original record is produced on record, it appears from the record the allegations against the petitioner are in respect of cheating and forgery of documents, hence the order passed by the Sessions Court is proper. No interference is required in it and I pass the following order :-

ORDER

(i) Writ petition is dismissed.

(ii) The Investigating Officer shall try to complete the further investigation as early as possible preferably within two months.

[SHIVKUMAR DIGE, J.]

sga