



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

1022 CRIMINAL APPLICATION NO. 1719 OF 2023

HIRAMAN SAVLARAM UJAGARE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Sapkal Sandip R.

APP for Respondent No. 1 : Mr. M.M. Nerlikar

Advocate for Respondent No. 2 : Mr. P. M. Nagargoje

...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 02 FEBRUARY 2024

PER COURT :

Heard both the sides finally.

2. The applicant who was serving as Sub-Registrar is seeking quashment of Crime No. 68/2023 registered at the instance of respondent no. 2 for the offences punishable under Sections 420, 467, 468, 471 read with 34 of the Indian Penal Code.

3. Learned Advocate for the applicant submits that being a Sub-Registrar who was duty bound to register the documents, no fault can be found in his conduct in allowing the registration of these many documents irrespective of the fact whether there was any encumbrance on the properties under sale. He would submit that since these were plain and simple documents of sale and purchase of an immovable property, he has simply performed his duty while registering the documents. There

is nothing to reveal about he having shared any common intention with the co-accused who had sold these properties to various persons including respondent no. 2. It would be sheer abuse of the process of law if in spite of the applicant having undertaken the official work, is now made to face the prosecution. He would submit that the present case is a case covered by the instances quoted in the matter of *State of Haryana and others Versus Ch. Bhjan Lal and others*, **AIR 1992 SC 604**.

4. Learned APP as well as learned Advocate for respondent no.2 opposes the application. They would submit that it is not an isolated matter wherein, the applicant has facilitated registration of documents in spite of there being specific encumbrance recorded in the revenue record of the property. There are as many as 35 row houses which have been sold by the registered sale deeds, without insisting for any no objection from the concerned Bank and in some cases there were even forged no objection certificates. The applicant has allowed the co-accused to register the sale deeds. This circumstance itself is sufficient to reveal his complicity. It is a matter of investigation and trial. Prosecution deserves an opportunity to unveil the modalities and the application may be rejected.

5. Though at the first blush, it does appear that the applicant being a Sub-Registrar, no fault can be found in his registering the sale

deeds produced before him. However, the matter does not appear to be so simple. As has been alleged in the FIR, the row houses constructed by the co-accused were put to sale. There were encumbrances registered with the same office in which the applicant was the Sub-Registrar. Still, the co-accused have been able to execute the sale deeds which the applicant permitted without raising any query as regards the encumbrance. In some matters there were not even the no objection certificates issued by the concerned Bank and in some matters those certificates which were produced, were allegedly forged one.

6. In our considered view, the circumstances indicated herein above, *prima facie*, demonstrate involvement and complicity of the applicant in enabling the co-accused to sell the row houses, by registered sale deeds even when the properties were encumbered by way of registered instruments, without insisting for no objection certificates of the concerned Bank.

7. We are not inclined to grant any relief to the applicant. The application is rejected.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]