



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

34 CRIMINAL APPLICATION NO.2564 OF 2022

- 1      Indrakumar Ramdas Khile,  
Age 35 yrs., Occ. Agri.,
- 2      Chandrakant Ramdas Khile,  
Age 33 yrs., Occ. Agri.,
- 3      Babasaheb Mahada Khile,  
Age 65 yrs., Occ. Agri.,
- 4      Barikrao Uttam Khile,  
Age 49 yrs., Occ. Agri.,
- 5      Mahipati Babasaheb Khile,  
Age 52 yrs., Occ. Agri.,
- 6      Surekha Bhausahab Khile,  
Age 41 yrs., Occ. Agri.,
- 7      Eknath Yashwanta Khile,  
Age 57 yrs., Occ. Agri.,
- 8      Dadasaheb Yashwanta Khile,  
Age 52 yrs., Occ. Agri.,
- 9      Annasaheb Yashwanta Khile,  
Age 51 yrs., Occ. Agri.,
- 10     Parmeshwar Yashwanta Khile,  
Age 49 yrs., Occ. Agri.,
- 11     Deepak Babasaheb Khile,  
Age 36 yrs., Occ. Agri.,

All are r/o Kanadi (Bk),  
Tq. Ashti, Dist. Beed.

... Applicants

... **Versus** ...

- 1 The State of Maharashtra  
Through Police Station Officer,  
Police Station, Ashti, Dist. Beed.
- 2 Ramakant Dattatraya Khile,  
Age 44 yrs., Occ. Agri.,  
R/o Kanadi (Bk), Tq. Ashti,  
Dist. Beed.

... **Respondents**

...

Mr. Tushar Shinde, Advocate h/f Mrs. G.R. Jagtap, Advocate for applicant

Mr. S.A. Gaikwad, APP for respondent No.1

Mr. A.Y. Pandule, Advocate for respondent No.2

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**CORAM :** SMT. VIBHA KANKANWADI &  
S.G. CHAPALGAONKAR, JJ.

**DATE :** 02<sup>nd</sup> SEPTEMBER, 2024

**ORDER :** (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing First Information Report vide Crime No.30/2022 dated 06.02.2022 registered with Ashti Police Station, Dist. Beed, for the offence punishable under Section 166, 167, 418, 420, 409, 465, 468, 471, 447, 477A and 120B of the Indian Penal Code, 1860 and

subsequently for quashing charge sheet bearing Regular Criminal Case No.88/2023 pending before learned Judicial Magistrate First Class, Ashti, Dist. Beed.

2            Heard learned Advocate Mr. Tushar Shinde holding for learned Advocate Mrs. G.R. Jagtap for applicants, learned APP Mr. S.A. Gaikwad for respondent No.1 and learned Advocate Mr. A.Y. Pandule for respondent No.2.

3            Learned Advocate for applicants vehemently submits that allegations by respondent No.2 – informant in the First Information Report are that land Sy.Nos.48/AA, 39/B/2 and 38/B/2 from village Kanadi (Bk), Tq. Ashti, Dist. Beed is the ancestral property and he was in possession of the said lands as per partition decree dated 26.08.2014 passed by learned Civil Judge Junior Division, Ashti, Dist. Beed. In fact, accused persons have also got their shares in the property as per the said partition decree. According to respondent No.2, the Government had acquired land Sy.No.38 and all the accused persons hatched up conspiracy to deprive him from getting compensation from his share and committed forgery of the documents in connivance with Sub Divisional Officer who happened to be the Land Acquisition Officer in the said File No.17/2017. In view of the said creation and false & bogus documents notice of acquisition was not given to the

informant. It is also the case of respondent No.2 that accused persons had threatened him in case he causes any obstruction in the construction of percolation tank. Accused No.12 has completed the construction of percolation tank with the help of JCB machine and took away the black soil from 56 R land of informant. According to him, accused persons have prepared false and bogus record relating to acquisition of land admeasuring 04 H 01 R and thereby misappropriation of Government amount has been committed. Learned Advocate for applicants submits that First Information Report is the outcome of complaint filed by respondent No.2 and order was passed by learned Judicial Magistrate First Class for investigation under Section 156(3) of the Code of Criminal Procedure. In fact, Joint Measurement had taken place and the Award has been prepared thereafter. If at all respondent No.2 has share in the property, then he can get his share from Civil Court and, therefore, the nature of dispute is civil. First Information Report does not constitute any offence on the face of record. When no cognizable offence was transpiring, the learned Magistrate ought not to have exercised his powers under Section 156(3) of the Code of Criminal Procedure. It would be unjust to ask applicants to face the trial and, therefore, First Information Report as well as entire proceedings deserve to be quashed and set aside.

4 Per contra, learned APP and learned Advocate for respondent No.2 have submitted that it was unfortunate that though the report which respondent No.2 tried to lodge disclosing cognizable offence, yet, no cognizance was taken by local police and also the higher authority and, therefore, it appears that he was constrained to approach learned Magistrate under Section 156(3) of the Code of Criminal Procedure. In all 12 documents were relied by respondent No.2 to support his contention in the application for investigation. Learned Magistrate was satisfied and, therefore, by passing detailed order sent the complaint for investigation under Section 156(3) of the Code of Criminal Procedure to Ashti Police Station, thereupon the First Information Report has been lodged. Documents have been collected from various departments and now when the charge sheet is filed, it is the prosecution story that in spite of the fact that as per the decree 56 R land was given to respondent No.2; yet, documents were prepared such that respondent No.2's land has not been acquired. No compensation was awarded to him. The amount which was given by Government has then been distributed or utilized for applicants. Statements of witnesses have been recorded. When it is the case that false documents have been prepared, then the nature of dispute will not be only civil in nature and, therefore, this is not a fit case where powers under Section 482 of the Code of Criminal Procedure can be exercised.

5           We are fully agree with submissions on behalf of learned APP as well as learned Advocate for respondent No.2. Though the complaint centres around the Award passed by Special Land Acquisition Officer, but here it is the case of the prosecution that when as per the decree of a competent Court in respect of partition, certain portion of the land was awarded to respondent No.2 – informant and taking into consideration the situation of the property allotted to him, it ought to have been then seen whether the property of the informant has been acquired or not and to include his name in the list of beneficiaries. When contrary documents appear to have been created without taking note of the decree, then certainly this is not a fit case where we can exercise our powers under Section 482 of the Code of Criminal Procedure. Now, which role has been played by which accused would depend upon the evidence that would be adduced and who has prepared the false documents. Certainly, the concerned Trial Court would take into consideration the appropriate allegations at the time of framing charge and charge would be properly framed. Hence, the application stands rejected.

**(S.G. CHAPALGAONKAR, J.)**

**( SMT. VIBHA KANKANWADI, J. )**

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