



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2663 OF 2022

Uddhav S/o Dattatray Bhise,
Age-49 years, Occu:Stamp Vendor,
R/o-Near By Ladies Hostel, Parner,
Tq-Parner, Dist-Ahmednagar.

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through Parner Police Station,
Parner, District-Ahmednagar,
- 2) Shripad S/o Shriram Garud,
Age-37 years, Occu:Private Service,
R/o-Block No.09, 2nd Floor,
Shri Saptashrungi Co-operative
Housing Society, Gopalnagar,
Galli No.01, Dombiwali (East),
Mumbai.

...RESPONDENTS

...
Mr. Siddhesh S. Ghodke Advocate for Applicant.
Mr. N.R. Dayama, A.P.P. for Respondent No.1.
Mr. S.K. Dhabekar Advocate for Respondent No.2 (**Absent**).
...

**CORAM: SMT. VIBHA KANKANWADI AND
ROHIT W. JOSHI, JJ.**

DATE : 5th DECEMBER, 2024

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed under Section 482 of the

Code of Criminal Procedure, initially for quashing the First Information Report (for short "the FIR") vide Crime No. 265 of 2022 registered with Parner Police Station, District-Ahmednagar and later on by way of amendment, for quashing the proceedings in R.C.C. No.242 of 2022 pending before the learned Judicial Magistrate First Class, Parner for the offence punishable under Sections 404, 419, 420, 465, 468, 471 read with Section 34 of the Indian Penal Code.

2. Heard learned Advocate Mr. Ghodke for the applicants and learned APP Mr. Dayama for respondent No.1.

3. Learned Advocate for the applicant has taken us through the charge-sheet and the contents of the FIR and submits that the present applicant has been made as an accused No.5. It is not in dispute that the present applicant is a licensed petition-writer and Permit No.13 of 1993 has been issued by In-charge District and Sessions Judge, Ahmednagar on 22nd November 1993, the copy of which has been produced. Respondent No.2 in his FIR alleges that his great grand-mother Umabai Dattatraya Garud had land admeasuring 1 Hectare 34 R out of Gut No.155 situated at Pimpalgaon Turk, Taluka-Parner,

District-Ahmednagar. Her name stood in 7 X 12 extract in view of the fact that she had got the said land in Suit No.6 of 1957 filed before the Civil Court, Ahmednagar. His great grand-mother Umabai expired on 11th January 1988, at Pune. However, after the death of his great grand-mother, name of his grand-father and grand-mother was not entered into nor his father's name was entered into. His grand-father expired on 17th December 2003 at Dombiwali and grand-mother expired on 3rd April 2004. On 5th March 2019, the informant and his mother went to inspect the two lands i.e. Gut Nos. 155 and 389. Land in Gut No.389 is still in the name of father-in-law of his great grand-mother. However, as regards Gut No.155 is concerned, he came to know that the said land has been purchased by one Chandrabhaga Raosaheb Shinde in 2012. The informant raised a question that when his great grand-mother had expired in the year 1988, how the land could have been sold. Nobody had given appropriate answer and therefore, he took out the certified copies of the sale deeds. Thereupon he came to know that by impersonating his great grand-mother, said Chandrabhaga Shinde has prepared the false registered sale deed on 3rd March 2012, in which her husband Raosaheb has helped her. The lady who impersonated Umabai is in fact aunt of said Raosaheb and her name is

Thakubai Govind Shinde. In another document there is photograph of Thakubai and her photograph is shown as that of Umabai in respect of the sale deed of the land belonging to the great grand-mother of the informant. Both these documents are prepared by the present applicant.

4. Learned Advocate for the applicant submits that the entire record would show that the role attributed to the applicant is of scribing the document. He has scribed it as per the instructions given and he has no personal knowledge. Learned Advocate for the applicant relies on the decision in ***Md. Ibrahim and others vs. State of Bihar and another (Criminal Appeal No.1695 of 2009, decided by the Hon'ble Apex Court on 4th September 2009)***, wherein, in the similar set of facts, the FIR for the offence punishable under Sections 420, 467, 471 and 504 of the Indian Penal Code was quashed and set aside. Similarly in the decision in ***Rekha Jain vs. the State of Karnataka and another, (Criminal Appeal No.749 of 2022, decided by the Hon'ble Apex Court on 10th May 2022)***, when there was no inducement that was shown, it was held that that ingredients of offence under Section 420 of the Indian Penal Code are not made out and therefore, the case

was made out for the High Court to exercise its powers under Section 482 of the Code of Criminal Procedure.

5. Learned APP has submitted that there is evidence against the applicant, and respondent No.2 by filing affidavit has placed on record that now the matter is before the Revenue Court and by way of additional affidavit respondent No.2 has stated that the present applicant is an accused in similar cases before the learned Judicial Magistrate First Class, Parner. Thus, it appears to be the regular work for the applicant to prepare false documents like sale deed and therefore, such accused should not be protected.

6. At the outset, it is to be noted that there are documents, *prima facie*, supporting the FIR that the great grand-mother of the informant, namely, Umabai expired in 1988 but there is sale deed which has been scribed by the present applicant on 3rd March 2012. Even it is shown that she herself has purchased the stamp paper. There is also *prima facie* evidence to support that the lady who has been shown as Thakubai Govind Shinde in another sale deed, is the same who has been shown as Umabai Dattatraya Shinde in the concerned sale deed and both these

sale deeds are written by the applicant. Now, it is for the applicant to show that he was not knowing that Thakubai is not Umabai. The sale deed between Chandrabhaga and Thakubai is executed on 18th February 2012, whereas the document between Umabai and Chandrabhaga is executed on 3rd March 2012. So there is no much gap between the two documents.

7. The two decisions which have been relied upon by the learned Advocate for the applicant proceeded on the basis of the facts before the Hon'ble Apex Court, whereas the facts before this Court are different. We are also taking note of the fact that the present applicant is made as an accused No.9 in Criminal Miscellaneous Application No. 41 of 2015 for the offence punishable under Sections 420, 421, 422, 423, 424 etc. of the Indian Penal Code, in which it is alleged that false affidavit has been prepared before the Tahsildar. Further, another Criminal Miscellaneous Application No. 25 of 2021 is before the same Court i.e. Judicial Magistrate First Class, Parner, wherein present applicant is accused No.6, which is an application under Section 340 of the Code of Criminal Procedure for the act of perjury, wherein it is alleged that the present applicant and other accused have fraudulently used the decree in R.C.S. No.1 of

2000 for preparation of 7 X 12 extracts and 8-A extracts. No doubt it is stated in the affidavit by respondent No. 2 that the criminal revision application is preferred by the present applicant. When such facts are coming before this Court, then we do not take this to be a fit case where we should exercise our inherent powers under Section 482 of the Code of Criminal Procedure.

8. The Criminal Application stands rejected.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/DEC24