



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 CRIMINAL WRIT PETITION NO. 1446 OF 2024

SHEELA NAMDEO BONDEKAR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Mr. Swapnil B. Joshi

a/w Ms.Sakshi S. Muley

h/f. Mr. J.P. Legal Associates

APP for Respondent / State : Mr. V. M. Jaware

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 22.10.2024

PER COURT :

1. Heard at length Mr. Swapnil Joshi, learned Advocate for the Petitioner and Mr. V. M. Jaware, learned APP for the Respondent /State.

2. By the present Petition, the Petitioner has prayed for quash and set aside the judgment and order dated 23.04.2024 passed by the learned Additional Sessions Judge, Aurangabad in Criminal Revision Application No.186/2019, thereby affirmed the order of dismissal of the complaint, passed by the learned Chief Judicial Magistrate, Aurangabad on 25.04.2019 in Regular Criminal Case No. 1006/2017.

3. In nut-shell, it is the case of the Petitioner that she is a Member of Ahilyabai Magaswargiya Gruh Nirman Sahakari Sanstha Limited,

Satara, Aurangabad (hereinafter referred to as 'Housing Society'). The said Housing Society was formed to provide plots for construction of houses to the people from backward class at the affordable price. Initially, 12 members were formed the society, however, subsequently three more members added. The land admeasuring 1 Acre 20 R. arising out of gut no. 74 at village Satara, District Aurangabad was purchased in the name of the Housing Society. The Respondent No. 2 / Original Accused No.1 Mrs. Vatasla Nikalje and Respondent No. 3 / Original Accused No. 2 Mr. Vijay Prabhakar Shirole declared themselves as Chairman and Secretary of the Housing Society, without any general body meeting. So also, the Respondents No. 2 and 3 created forged and fabricated documents with collusion of the Respondents No. 4 / Original Accused No.3 and sold land of the Society.

4. The Petitioner further contended that the Respondents No. 2 and 3 applied before the Deputy Registrar, Co-operative Society by keeping in dark to other members and obtained permission to sell the land of the society. Accordingly, the Deputy Registrar, Co-operative Society granted permission on certain terms and conditions but the Respondents No. 2 and 3 sold said land in consideration of Rs. 35,50,000/- of the society in violation of conditions of the permission

granted by the Deputy Registrar. Therefore, the Petitioner lodged a report with Osmanpura Police Station, but the police did not register the offence on ground that the nature of dispute is of civil nature. Therefore, the Petitioner had approached before this Court in Criminal Writ Petition No.135/2012.

5. On 28.03.2012, the Division Bench of this Court consisting (Naresh H. Patil as His Lordship then was and T. V. Nalawade, JJ), passed an order and observed that, the Petitioner shall appear before the Investigating Officer, Osmanpura Police Station, Aurangabad. Needless to say that, the present Petitioner along with other two members had approached before this Court in Writ Petition No.6286 of 2012 and had challenged the order dated 17.04.2012 passed by the Joint Registrar, Co-operative Society in Revision Application No.21/2011 and seeking declaration that the so-called sale-deed executed on 22.01.2007 by the present Respondent No.2 – Vatasalabai Maruti Nikalje in pursuant to permission granted on 15.12.2006 is illegal, null and void.

6. On 26.05.2016, the Co-ordinate Bench of this Court quashed and set aside the order dated 17.04.2012 passed by the learned Joint Registrar, Co-operative Society, Aurangabad in Revision Application

No.21/2011. Consequently, the order dated 15.12.2006 passed by the Taluka Deputy Registrar, Co-operative Societies, Adalat Road, Aurangabad was quashed and set aside.

7. The Petitioner is a member of the Housing Society filed a private complaint RCC No.1006/2017 before the Chief Judicial Magistrate, Aurangabad and prayed for issuance of process as against the Respondents No. 2 to 6 for the offences punishable under Sections 420, 464, 466, 467, 468, 470, 471 and Section 120(B) of the Indian Penal Code.

8. The present Petitioner complainant alleged that Respondents No. 4 and 5 in connivance with the Respondent No. 6 created false and fabricated documents and on the basis of fabricated documents, the Dy. Registrar, Co-operative Society granted permission dated 15.12.2006 to sell the land of the Society. So also, the present Respondents No. 4 and 5 sold said land in favour of the Respondent No. 6 in meagre consideration of Rs. 35,50,000/-. Therefore, the action on the part of the Respondents amounts to offences punishable under Sections 420, 464, 466, 467, 468, 470, 471 and Section 120(B) of the Indian Penal Code.

9. On face of record, it prima-facie appears that on 25.04.2019, the learned Chief Judicial Magistrate, Aurangabad passed an order below Exhibit No.1 in RCC No.1006/2017 and dismissed the complaint on ground that the Complainant produced Notary on record to show that the accused acted in collusion and effected the sale deed of the society's land fraudulently.

10. Being aggrieved by the said order, the Petitioner filed Criminal Revision Application No.186/2019.

11. On 25.04.2024, the learned Additional Sessions Judge, Aurangabad passed the impugned order holding that there is no material to proceed as against the Respondents No. 3 to 5, so also, the record does not show any role played by the Respondents while fabricating the affidavit produced while seeking the permission under the Maharashtra Co-operative Societies Act with the competent authority i.e. Dy. Registrar, Co-operative Society.

12. No doubt, the complaint made is allegation about taking her signatures on the blank documents / papers but no substantial statement came in inquiry conducted under Section 202 of Cr.P.C. Further, all the facts and circumstances which have been described in

the complaint appears about existence of civil dispute between the parties i.e. among the members of the Housing Society. Therefore, I find the impugned order does not suffer from illegality and no substantial grounds are set out to interfere with the said findings.

13. Accordingly, the Petition is dismissed.

(Y. G. KHOBRAGADE, J.)

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