

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 3357 OF 2023

1. Mrs. Sujata Kalyan Roy,
Age about 45 years, Occupation: Business,
Residing at: A-201, Raj Sau, Plot No. 66,
Sector 21, Kharghar, Taluka Panvel,
Navi Mumbai.

2. Mr. Kalyan Kumar Roy,
Age about 59 years, Occupation: Business,
Residing at: A-201, Raj Sau, Plot No. 66,
Sector 21, Kharghar, Taluka Panvel,
Navi Mumbai.

3. Mr. Shivprasad Devprasad Yadav,
Age about 59 years, Occupation: Business,
Residing At: Flat No. 304, Fam Society Ltd.,
Plot No. 19, Building No. 19, Sector 11,
Khoparkhairne, Navi Mumbai.

.. Petitioners

Vs.

1. The State of Maharashtra
(Through Taloja Police Station, Navi Mumbai.)

2. Mr. Dilipkumar Jaswantraaj Shah,
Age- 50 years, Occupation: Builder,
Residing At: 315/317, S.V.P road, Third floor,
Kazi Mansion Building, Near Gokuldham Hotel,
Mumbai.

.. Respondents

Mr. Chinmay Patil a/w Abhinav Tayade i/by Aniket Yadav for Petitioners.
Mr. V. B. Konde Deshmukh APP for Respondent No.1.

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**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

RESERVED ON : 6th DECEMBER, 2023

PRONOUNCED ON : 8th JANUARY, 2024

JUDGMENT: [PER- SHYAM C. CHANDAK, J.]

1) Present Writ Petition filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, is seeking to quash the F.I.R. being C.R. No. 205 of 2023 registered with Taloja Police Station, Navi Mumbai for offences punishable under Sections 465, 466, 468, 469 & 473 read with 34 of the Indian Penal Code.

2) Heard Mr. Chinmay Patil, learned Advocate for the Petitioners and Mr. V. B. Konde Deshmukh, learned APP for Respondent No.1-State

3) Rule. Rule made returnable forthwith and taken up for final hearing with the consent of parties.

4) The impugned F.I.R. has been registered on the report of Respondent No.2 wherein he has narrated that, he has been doing construction business in Panvel and Taloja area. Earlier, Petitioner No.1 had complained against Respondent No.2. During inquiry of that complaint, Petitioner No.1 had produced an attested copy of three Non-Agricultural Orders ('N.A. Orders', for short), allegedly issued by the Collector, Raigad District in respect of Survey Nos.119-*hissa* Nos.1 & 2, Survey Nos.120-*hissa* Nos.2 & 3 and Survey No.121-*hissa* Nos.1 & 2, situated at Balaji Industries Park, Tondregaoon, Taluka Panvel. Said Orders

were allegedly produced from the Registered Deed No.13014/2012, whereby *Gala* No.4, situated at Balaji Industries Park, Tondregaoon, was sold by Respondent No.2 to Petitioner No.3. As alleged, the said N.A. Orders were not annexed/included with the said Registered Deed of the *Gala* sold to Petitioner No.3. It is stated that, on 9th May, 2023, Mr. Vishvas Jadhav, owner of *Gala* Q/27 and Mr. Vinod Yadav, owner of *Gala* A/03, both situated at the same Industries Park, showed to Respondent No.2 two N.A. Orders of the year 2010, issued by the Collector, Raigad, Alibaug in respect of the above lands owned by Respondent No.2 and said two persons informed to Respondent No.2 that, Petitioner Nos.1 and 2 gave them the said Orders and suggested to put it in the Register Deed of their respective *Gala* and based on these Orders they would file a report/complaint against Respondent No.2.

4.1) Thus, the Petitioners prepared the false N.A. Orders bearing forged seal and signatures of the District Collector, Raigad, in the name of Respondent No.2 in respect of the above Survey numbers and by stamping forged seals of the Panvel Registration Office thereon, they annexed it to the said Registered Deed No.13014/2012. This way, the Petitioners defamed and attempted to cheat Respondent No.2. Therefore, the aforesaid crime has been registered against the Petitioners. Hence, this Petition.

5) Learned counsel for the Petitioners submitted that

Respondent No.2 has carried out the development of said Balaji Industries Park, situated in the above Survey Nos., at Tondregaoon. The industrial park project consisting of Warehouses, *Galas* etc. In the year 2017 and 2018, Petitioner Nos.1 and 2 entered into Registered Agreement to Sale for due consideration with Respondent No.2 in respect of three *Galas*/units *i.e* R-9, R-10 and R-11, in the said park. At that time, Respondent No.2 told that the said project is being developed on a N.A. sanctioned land by obtaining requisite sanctions and permissions. Since then, Petitioner Nos.1 & 2 are in possession of said *Gala* Nos. R-9, R-10 & R-11 and carried out their business. However, ever since the Agreement to Sale and despite receiving entire consideration, Respondent No.2 did not issue the possession letters of the sold *Galas* to Petitioner Nos.1 and 2. Therefore, Petitioner No.1 obtained certain information under RTI which revealed that Respondent No.2 has not obtained necessary permission of the Corporation and the subject N.A. Orders are forged. Hence, Petitioner No.1 showed these documents to the police during an enquiry of the complaint filed against Respondent No.2. Except this no other overt act of omission or commission can be attributed to the Petitioners. In view of the above circumstances, the Petitioners have no reason to forge the N.A. Orders, because they cannot derive any benefit therefrom. On the contrary, such Orders would only benefit Respondent No.2 for his illegal acts. However, to suppress his own fraud and prevent

the probable Police action on the complaint by Petitioner No.1 relating to the said fraud, Respondent No. 2 has filed the impugned F.I.R. falsely and out of vengeance. In the backdrop the impugned F.I.R. is liable to be quashed and set aside.

5.1) To support his submissions, learned Advocate for the Petitioners relied on the decision in *Iqbal alias Bala and Othrs .vs. State of U.P and Othrs.*, [2023 SCC Online SC 949], wherein it is observed that, “whenever an Application under Section 482 of Cr.P.C. or a Petition under Article 226 of the Constitution seeks the F.I.R. or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the F.I.R. with care and a little more closely. Because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings disclosing the necessary ingredients to constitute the alleged offence”.

6) In contrast, learned APP submitted that the Petitioners themselves were possessing the disputed N.A. Order which was part of the Registered Deed executed in favour of Petitioner No.3. The Petitioner No.1 herself produced the disputed N.A. Orders before the police from the Registered Deed in the name of the Petitioner No.3. The Petitioners

have not explained as to why Mr. Vishvas Jadhav and Mr. Vinod Yadav are claiming that Petitioner No.2 gave them the disputed N.A. Orders. As such, there is *prima facie* case against the Petitioners.

7) Looking at the nature of the case, on 4th December 2023, we directed the Investigating Officer to record a statement of the concerned Collector. Accordingly, the police recorded the statement of the Resident Deputy Collector, Raigad. The said statement clearly indicates that, the subject N.A. Orders are forged. Further, the F.I.R. indicates that the Petitioner Nos.1 and 2 themselves have produced the said Orders. There is nothing on record to indicate that Mr. Vishvas Jadhav and Mr. Vinod Yadav are related to Respondent No.2 and on his instructions, they have stated that the Petitioner No.2 gave them the subject N.A.Orders. According to us, it is necessary for the Investigating Agency to investigate the most vital aspect in the present crime i.e. who has manufactured and/or created the bogus N.A. Orders allegedly signed by the Collector of Raigad/Deputy Collector of Raigad. As such, we are of the opinion that there is strong *prima facie* case against the Petitioners of having committed the offences stated in the impugned F.I.R.

8) In so far as the submissions of the learned Counsel for the Petitioners are concerned, it constitutes the defence of Petitioners in the trial. Hence, examination of said defence in this Petition is not possible. In this regard it is apt to refer the decision in the case of

Central Bureau of Investigation vs. Aryan Singh (AIR 2023 SC 1987)

wherein the Apex Court held that, at the stage of discharge and/or quashing of criminal proceedings, while exercising the power under Section 482 of Cr.P.C., the High Court is not required to conduct a mini trial as if the High Court is considering an Application against the judgment and order passed by a trial Court on conclusion of trial.

9) In view thereof, we find no merit in the Petition and it is liable to be dismissed.

9.1) Petition is dismissed.

(SHYAM C. CHANDAK, J.)

(A. S. GADKARI, J.)