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

CRIMINAL WRIT PETITION NO. 247 OF 2024

Pradeep Jaisingh Lad and Anr.Petitioners
V/s.
The State of Maharashtra and Ors. ...Respondents

**ALONGWITH
INTERIM APPLICATION NO. 4121 OF 2024
IN
CRIMINAL WRIT PETITION NO. 247 OF 2024**

Narayan Jaisingh LadApplicant
In the Matter Between
Pradeep Jaisingh Lad and Anr.Petitioners
V/s.
The State of Maharashtra and Ors. ...Respondents

Mr. Sanjay Patil for Petitioners.
Mr. Ajay Patil, APP for State.
Mr. Sujeet Bugade for Respondent No.2.

**CORAM : SARANG V. KOTWAL &
DR. NEELA GOKHALE, JJ.
DATED : 11th OCTOBER 2024**

P.C. :

1. This Petition is filed for quashing of the FIR and the charge-sheet registered vide C.R. No.0183 of 2023 with Shahuwadi Police Station under Section 420, 464, 465, 468, 415 read with Section 34 of the Indian Penal Code, 1860 (the IPC). The investigation is over and the charge-sheet is filed vide Charge-sheet No. 127 of 2023.

2. Heard. The allegations in the FIR is that the Petitioners are brother and sister of the First Informant. There were in all four siblings. Their father died in 2006. Their mother passed away on 17th August 2018. She had savings bank account with Bank of Maharashtra, Branch Bambawade. The allegations are that both the petitioners submitted an affidavit with the bank mentioning that only the petitioners were the legal heirs of the deceased mother and they got an amount of Rs.2,77,000/- transferred to the account of Petitioner No.2. On this basis the FIR is lodged.

3. It is not disputed that out of that amount Rs.1,15,114/- was returned to the bank. The other amount was retained. The investigation was carried out and the charge-sheet is filed. Learned counsel for the petitioners submitted that no cognizable offence is made out against either of the petitioners. The amount was withdrawn pursuant to the family arrangement between the legal heirs, i.e., the brothers and sisters. But it was an oral understanding and the First Informant is taking advantage of that fact and making false allegations against the petitioners. He submitted even the offence of misappropriation of property is not made out. The offence of forgery is also not made out. Admittedly, the affidavit which was tendered to the bank was in the nature of indemnity bond and it was signed by both the petitioners. It merely indemnifies the bank from any action that could be taken by the legal heirs against the bank. That affidavit itself does

not deprive the legal heirs of their rights which they can establish through proper civil proceedings. He further submitted that the major part of the amount is returned. The remaining amount is their legitimate share, therefore the offence of misappropriation is not made out. There is no forgery of the affidavit because the affidavit bears the signatures of both the petitioners. He further submitted that ingredients of cheating are not made out because no inducement was made by the petitioners to the other legal heirs. Consequently, this cannot be forgery for the purposes of cheating and therefore all other sections are also not applicable. He submitted that it is a dispute between brothers and sister and continuation of the prosecution in these circumstances would be an abuse of process of law.

4. Learned counsel for the Respondent No.2 on the other hand submitted that the averments in the aforementioned affidavit are false to the knowledge of the petitioners and therefore the offence is made out. He submitted that there was no family arrangement giving any right to the petitioners to withdraw the money of their deceased mother.

5. Considering these submissions and the arguable legal points raised; they are required to be decided at the final hearing stage, the following order is passed.

ORDER

1. Rule.

2. Till the disposal of the Petition there shall be stay on the further proceedings before the Trial Court arising out of the present subject matter.
3. Interim Application No. 4121 of 2024 for vacating stay is dismissed and disposed of.
4. Learned counsel for the Respondent No.2 waives service for the final disposal of the petition.

(DR. NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)