



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Criminal Writ Petition (WP) No. 527 of 2024

Dnyaneshwar Mahadeorao @ Manohar Helonde

Versus

**State of Maharashtra, through Police Station Officer, Police Station
Ghatanji District Yavatmal and others**

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms. Parita Lakhani, Advocate for the petitioners.

Shri N.A.Joshi, APP for the respondent no.1/State.

**CORAM : SMT. VIBHA KANKANWADI &
MRS. VRUSHALI V. JOSHI, JJ.**

DATED : 4th JULY, 2024.

Heard Ms. Parita Lakhani, learned advocate for the petitioner and Shri Nikhil Joshi, learned Additional Public Prosecutor for the respondent no.1/State.

2. The present petition has been filed invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure and Articles 226 and 227 of the Constitution of India for quashing and setting aside the First Information Report dated 5th October, 2023 vide Crime No. 873 of 2023 registered at the behest of the respondent no.2 Ghatanji Police Station, District Yavatmal for the offences punishable under Sections 420, 468, 465, 471 of Indian Penal Code.

3. After hearing the learned advocate for the petitioner, it is not even necessary to issue notice to the respondent nos. 2 and 3.

4. The petitioner has come with a case that he had a joint account along with his grand mother from maternal side namely Gopika Vithobaji Gawande in Central Co-operative Bank Limited, Branch at Talani, District Yavatmal on 1st January, 2000. Gopika expired on 5th August, 2016. After her death, the fact was informed to the bank authority initially orally and subsequently in writing. The bank allowed the petitioner to operate the said joint account as he was entitled to withdraw the amounts in the said account. In fact the Government had also by way of subsidy as well as the petitioner's work in Mahatma Gandhi Employment Guarantee Scheme and under the Pradhan Mantri Awas Yojna Gramin had deposited the amount in the said joint account. Gopika was also known as Kisnabai. The petitioner says that both those names are of the same person. A Will was left in respect of agricultural land bearing Gat No.23 admeasuring 2.24 hector was executed in favour of the petitioner on 20th February, 1995 by said Gopika. The Will was registered Will.

5. After the death of Gopika, the petitioner became the owner of the said property. The maternal cousin of the petitioner became angry with the fact that the petitioner has become owner of the property and he started illegalities to grab the property. He prepared false and concocted certificate of Gopikabai showing her death as on 8th May, 1988. On the basis of fake certificate it is posed as Vithoba Gawande has two wives namely Kisnabai and Gopikabai. The said cousin Pravin Dewaji Butle wants to show that the Will is

fake. Even the joint account is fake and thereby the petitioner has cheated the bank authorities. In fact the petitioner has approached to the Civil Court and filed Regular Civil Suit No. 10 of 2024 for cancellation of entries and for declaration on the basis of Will that he is the owner. Therefore, it would be futile exercise to ask him to face the trial.

6. First and foremost the fact to be noted is that the First Information Report has been lodged by the Bank Official i.e. the respondent no.2. It is then stated that when the complaint was made by Pravin Devaji Butle, an inquiry was initiated and based upon the said inquiry, it was found that Vithoba Gawande had two wives; one was Gopikabai and another was Kisnabai. Gopikabai had died on 10th May, 1988 whereas the petitioner had produced death certificate showing the death occurred on 5th August, 2016 and in fact that death was of Kisnabai and appeared that the account was made joint on 30th July, 2016. Thus, it indicates that it was not joint as on 1st January, 2000 as contended by the petitioner. There are documents which have been collected in the inquiry as it appears from the First Information Report. No doubt, the petitioner has approached the Civil Court but since the matter pertains to the disputed facts which cannot be gone into under the writ jurisdiction of this Court, the case is not worthy of issuing notice and deserves to be rejected at the threshold. Accordingly, the writ petition stands rejected.

[MRS. VRUSHALI V. JOSHI, J.]

[SMT. VIBHA KANKANWADI, J.]