



Judgment

26 apl 1543.23

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

CRIMINAL APPLICATION (APL) NO. 1543/2023

1. Shri Ankit s/o Subashchand Rander,
aged 32 yrs., Occ. Business,
2. Shri Ashutosh s/o Subaschand Rander,
Aged 36 yrs., Occ. Business,

Both R/o. Plot No. 407 and 408 near
Geeta Mandir, Hiwari Layout,
Nagpur.

... **APPLICANTS**

VERSUS

1. State of Maharashtra,
through P.S.O. of Police Station
Mounda, Dist. Nagpur.
2. Shri Vikas s/o Dayaram Sahare,
Aged about 44 yrs., Occ. Business,
R/o. Gumthala, Kamptee, Nagpur.

... **NON-APPLICANTS**

Mr. S. Sitani,, Syed O. Ahmed, Advocate for applicants.
Mr. M.J. Khan, APP for non-applicant No.1.

CORAM : VINAY JOSHI AND
MRS. VRUSHALI V. JOSHI, JJ.

DATE : 25.01.2024.

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ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

2. **Admit.**

3. This is an application seeking to quash First Information Report ('FIR') vide Crime No. 828/2022 registered with Police Station Mouda, Nagpur for the offence punishable under Sections 120-B, 201, 420, 468, 471 read with Section 34 of the Indian Penal Code.

4. At the instance of report lodged by non-applicant No.2/informant crime has been registered. Precisely, it is his grievance that his two brothers namely Naresh Sahare and Suresh Sahare by deciving their mother Kasubai Sahare got executed sale-deeds in the year 2004 by keeping her in dark. Informant stated that neither he has singed as a witness on sale-deeds nor his mother has executed the same. In short, it is informant's contention that his two brothers have forged and fabricated sale-deeds in the year 2004. The informant further alleged that on the basis of those forged sale-deeds, his brothers have alienated the property in the year 2020 by executing sale-deeds in favour of present applicants. Thus, it is his

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contention that the applicants have also cheated him as they purchased the land on the strength of sale-deeds which were forged one.

5. It reveals that mother Kasubai Sahare has executed two sale-deeds dated 27.12.2004 in favour of her two sons namely Naresh Sahare and Suresh Sahare. Informant Vikas Sahare is shown as witness to both the sale-deeds. Admittedly, after executing of sale-deeds, both Naresh Sahare and Suresh Sahare got mutated their names to the Revenue Record of the subject land. Not only that, they have obtained loan from nationalized bank of which documents have been produced. After gap of 15 years, both brothers have re-sold the same land in favour of the present applicants by separate registered sale-deeds.

6. In above scenario, by any stretch of imagination, we are unable to make out any role of existing applicant who are subsequent purchasers in alleged act of creation of forged documents in the year 2004. Obviously, both applicants came into picture after 15 years. Thus, it is heard to digest that they have also participate in the fraudulent act.

7. It is evident that the real dispute was between informant Vikas Sahare with his two brothers namely Naresh Sahare and Suresh Sahare. It is his case that his two brothers fraudulently got executed sale-deeds from their mother in the year 2004. Apparently, names of two brothers have been mutated as well as for next 15 years no grievance was put forwarded about said alienation. Moreover, it is a domain of the Civil Court to decide the legality and validity of the sale-deeds.

8. From the view point of the present applicants (stranger purchasers), who have appeared first time on the screen in the year 2020 have purchased the said property from Naresh Sahare and Suresh Sahare. Assuming for a moment, even if the title of Naresh Share and Suresh Sahare was defective, still no criminality would be attracted towards the present applicants. At the most, if the sale-deeds of the year 2004 were held to be fabricated then the applicants would lose the title. Notably, in pursuance of direction issued by the Magistrate under Section 156(3) of the Code of Criminal Procedure, FIR was registered. The Police initially investigated and filed A-

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summary. However, informant protested which resulted into the Magistrate directing re-investigation. It is informed that the process of re-investigation is still go on.

9. Be that as it may, the facts are very clear that the allegations made in the FIR even if accepted in its entirety, it does not constitute prima facie case against the present applicants and therefore, continuation of prosecution is purely abuse of the process of the Court.

10. In view of above, application is allowed. We hereby quash and set aside FIR Crime No. 828/2022 registered with Police Station Mouda, Nagpur for the offence punishable under Sections 120-B, 201, 420, 468, 471 read with Section 34 of the Indian Penal Code against the present applicants.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)