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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL WRIT PETITION NO. 01 OF 2016
WITH
CRIMINAL APPLICATION NO.452 OF 2017**

Vasantrao s/o Jivanrao More,
Age: Major, Occu: Business,
R/o : Mahavir Colony, Parola,
Tal : Parola, Dist. Jalgaon,

....PETITIONER

VERSUS

1. The State of Maharashtra

2. Khushal s/o Bajirao Mahajan,
Age: 26 years, Occu: Agri.,
R/o : Parola, Motha Mahadev Chowk,
Tal: Parola, Dist. Jalgaon

....RESPONDENTS

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Mr R. G. Nirmal, Advocate h/f Mr Mahesh S. Deshmukh, Advocate
for Petitioner

Mr V. M. Lomte, APP for Respondent No.1/State

Mr S. V. Suryawanshi, Advocate for Respondent No.2

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CORAM : SUSHIL M. GHODESWAR, J.

RESERVED ON : 03 DECEMBER 2025

PRONOUNCED ON : 24 DECEMBER 2025

JUDGMENT :-

1. Rule. Rule is made returnable forthwith. Heard finally by
consent of the parties.

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2. By this petition under Article 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, the petitioner is challenging the order dated 31/07/2015, passed by the learned Additional Sessions Judge, Amalner, District Jalgaon in Criminal Revision Application No.26/2012, thereby confirming the order dated 08/08/2011, passed by the learned Judicial Magistrate First Class, Parola in R.C.C. No.121/2011, thereby issuing process against him alongwith co-accused persons.

3. According to petitioner, respondent No.2 had lodged private complaint for prosecution under Sections 109, 120(b), 406, 409, 420, 463, 465, 468 and 471 read with Section 34 of the Indian Penal Code vide R.C.C. No.121/2011 (initially registered as Criminal Misc. Application No.266/2010 on 26/11/2010). Respondent No.2 alleged in the said complaint that Gut No.1/1 and 1/2, (old Survey No.268) was owned by Shri. Bhaskar Tambe. Himmat Sukdeo Mali, Eknath Vanji Mali, Kashinath Vanji Mali and grandfather of complainant, namely, Rajaram Mahajan were tenants in the said land. Thereafter, names of his father and uncle were recorded as heirs of the tenants. One Baban Wamanrao Patil alongwith 29 proposed accused persons have formed one 'Shramsafalya' Cooperative Housing Society, wherein Baban Patil was the Chief Promoter. Said Baban Patil

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purchased the aforesaid land from the tenants. According to the respondent No.2, since the said society is not registered under the Cooperative Societies Act, it cannot purchase and moreover, the said property is Devasthan Inam. Present petitioner is arrayed as accused No.25 in the said complaint and the main allegations against the accused persons, including present petitioner is that they have purchased the said agricultural land behind back of the father of the complainant and the same is purchased in the name of unregistered cooperative housing society. Thus, according to respondent No.2, accused persons have cheated the complainant and as such, they have claimed forgery/criminal breach of trust, etc.

4. Initially, learned Judicial Magistrate, Parola observed that, since respondent No.2/complainant has not approached under Section 156(3) of the Code of Criminal Procedure, he put the complaint for examination under Section 200 of the Code of Criminal Procedure. Thereafter, vide the order dated 08/08/2011, learned Judicial Magistrate First Class, Parola issued process in the form of summons against accused Nos.1 to 30 and 33 for the offence punishable under Sections 120(b), 406, 409, 420, 465, 468, 471 read with Section 34 of the Indian Penal Code. The petitioner who is accused No.25 in the said complaint had preferred revision bearing Criminal Revision

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Application No.26/2012 under Section 397 of the Code of Criminal Procedure before the learned Additional Sessions Judge, Amalner, Jalgaon. Learned Sessions judge, after hearing the learned Advocates for the parties, dismissed the said criminal revision vide order dated 31/07/2015. Being aggrieved by the said judgment and order, the petitioner is before this Court in the present petition.

5. Heard learned Advocate Mr Nirmal holding for Advocate Mr Deshmukh for petitioner, learned APP Mr Lomte for respondent No.1/State and learned Advocate Mr Suryawanshi for respondent No.2/complainant.

6. Learned Advocate for the petitioner submits that the order of issuance of process against the petitioner is illegal, erroneous and against the law. He then submits that, no case under Sections 120(b), 406, 409, 420, 465, 468 and 471 read with Section 34 is made out by against the petitioner. He then raises the ground that the learned Judicial Magistrate First Class, Parola even did not make enquiry whether the petitioner was member of the alleged proposed 'Shramsafalya' Cooperative Housing Society or not. He also raises ground that, as alleged by the complainant, the petitioner is not beneficiary of the land, which is claimed to have been purchased by

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the members of the Society, of which, Baban Patil is the Chief Promoter.

7. Learned Advocate for the petitioner further submits that, the petitioner is not involved in the present crime, which is alleged to be committed by the other accused persons directly, still the learned Judicial Magistrate, without going into the merits of the matter had issued process against him in a mechanical manner. Learned Advocate for the petitioner has taken me through the contents of complaint bearing R.C.C. No.121/2011, which is filed at page No.11 of this petition. In the said complaint, initially in paragraph No.2, in one line, it is stated that accused No.1 Baban Patil is the Chief Promoter of 'Shramsafalya' Society and other accused persons are members of the said Society. Further, in paragraph No.6 of the complaint, the allegations are made that the accused No.25/present petitioner is Ex-member of the Parliament, and therefore, he may influence to the police, and therefore, respondent/complainant requested for not issuing the order under Section 156(3) of the Code of Criminal Procedure for investigation through the police. He submits that, except this statement, there is no statement or reference found in the complaint made by respondent No.2. Learned Advocate for the petitioner further submits that the petitioner at all have no concern with the said

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proposed 'Shramsafalya' Society. However, since he is the former member of Parliament, he had been dragged into instant controversy deliberately in order to settle political rivalry.

8. Learned Advocate for the petitioner further submits that the petitioner had purchased one plot through father of the complainant, namely, Bajirao Rajaram Mahajan (Mali) vide registered sale deed dated 12/01/1999 and said property was purchased in the name of Shri Sahjeevan Shikshan Prasarak Mandal through its President Vasantrao More (present petitioner). He, therefore, contends that, the said property which is purchased by the petitioner is in the name of Shri Sahjeevan Shikshan Prasarak Mandal Tehu i.e. Education Society. The other property is purchased by the petitioner in the year 1999 i.e. 26 years ago and now, after the death of his father, respondent No.2/complainant in order to harass the petitioner, deliberately implicated his name in the complaint though the petitioner is at all not concerned with the said proposed 'Shramsafalya' society. With all these submissions, learned Advocate for the petitioner prays for allowing the present petition.

9. Per contra, learned Advocate vehemently opposes the present petition. He submits that the accused persons including

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present petitioner purchased the said agricultural land behind back of father of respondent No.2/complainant and the land is purchased in the name of unregistered cooperative society and thus, accused cheated the complainant. He then submits that the disputed property is Devasthan Inam property and without any permission, it cannot be purchased by any unregistered society of whose petitioner is one of the member. He also submits that the learned Judicial Magistrate rightly issued process because prima facie case was made out against the petitioner and the learned Sessions Court also rightly rejected criminal revision filed by the petitioner. He then submits that petitioner is an influential personality and utilized his influence in the present matter so as to grab the property of respondent No.2. Learned Advocate for respondent No.2, however, does not dispute the position on record that the said property which is purchased by the petitioner is in the name of Shri Sahjeevan Shikshan Prasarak Mandal Tehu i.e. Education Society. He further states that the petitioner, by purchasing the aforesaid land has not only committed forgery, but he has cheated the Government as well as members of the trust. He then submits that this Court, vide order dated 07/12/2023 stayed further proceeding of R.C.C. No.121/2011 and therefore, it would be appropriate that this petition may be dismissed and respondent No.2 may be permitted to prosecute

the petitioner. He further submits that Gut No.1/1 and 1/2 is Devasthan land and is registered as a public trust. Respondent No.2 is one of the tenants of the said land. Earlier, the name of his grandfather, namely, Rajaram Mahajan was recorded in revenue record as tenant and thereafter name of his father, namely, Bajirao came to be recorded as tenant. Thereafter, his own name is recorded as tenant in the revenue record. He further submits that, at the time of purchase of said land, neither any permission from the Assistant Charity Commissioner, Jalgaon was sought nor any permission under the Tenancy law was sought. Even though, the grandfather of the present respondent No.2 is having right title and interest in the said land, no consent was taken from him. He further submits that on the basis of bogus sale deed, revenue record came to be altered and further the said land was converted to non-agricultural use vide the N.A. order dated 05/02/1992 granted by accused No.33 (Vidyadhar Kanade). He then submits that the proposed society was not registered, still the permission was granted. Thus, he submits that the present petition may not be entertained and the same may be dismissed.

10. After hearing the learned Advocates for the respective sides and after perusal of record available with the Court, it is clear

that the complaint is preferred by respondent No.2 against accused persons is totally silent as regards the actual role played by the petitioner in the commission of instant crime. General and omnibus allegations are made in the complaint that the petitioner is one of the accused amongst the 29 accused and they alongwith the Chief Promoter Baban Patil, purchased the property in question in illegal manner in the name of Cooperative Housing Society. The role of the petitioner further tried to be clarified saying that he is Ex-Parliamentarian and he may influence on the police machinery. Therefore, respondent/complainant did not press prayer for investigation under Section 156(3) of the Code of Criminal Procedure. When there are no specific allegations against the petitioner, it is very difficult to allow him to suffer through the process of trial, because respondent No.2, till date, could not point out that the petitioner is member of the said 'Shramsafalya' society. On the contrary, it is the case of the petitioner that he has purchased land from father of complainant, namely, Bajirao Mahajan being President of one Sahjeevan Shikshan Prasark Mandal which is the education society. Respondent No.2 has deliberately avoided to mention name of his father and about alleged sale deed dated 12/01/1999. Moreover, the alleged sale deed of the property is 25 years old and still it is not clear

as to why respondent No.2 has not initiated any civil court proceedings challenging the aforesaid alleged sale deed. When the role of the present petitioner is that of simply purchaser of the property and it is not clearly stated that the crime has been committed with guilty mind, therefore, it is very difficult to assume that it is the petitioner who is equally responsible for alleged crime. Because he being a bona fide purchaser, whatever documents of the properties might have been produced before him by the vendor Bajirao, came to be relied upon by believing it to be genuine. So instead of accusing the seller, purchaser is sought to be arrayed as accused, that too, on insufficient grounds. Therefore, in my view, the complaint against accused No.25 /present petitioner is nothing but abuse of process of law. Hence, I am of the opinion that the order passed by both the subordinate Courts are not correct and proper to the extent of present petitioner and the same are required to be quashed and set aside.

11. Hence, **this petition is allowed.** The order dated 31/07/2015, passed by the learned Additional Sessions Judge, Amalner, District Jalgaon in Criminal Revision Application No.26/2012, thereby confirming the order dated 08/08/2011, passed by the learned Judicial Magistrate First Class, Parola in R.C.C.

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No.121/2011, is hereby quashed and set aside to the extent of present petitioner.

12. Pending Criminal Application No.452/2017 also stands disposed of.

13. Rule is made absolute in above terms.

[SUSHIL M. GHODESWAR, J.]

sjk