



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

CRIMINAL APPLICATION NO.340 OF 2022

- 1) Sahebrao S/o Vithoba Walke,
Age-78 years, Occu:Agricultural,
R/o-Ukhalgaon, Tq-Shrigonda,
Dist-Ahmednagar,
- 2) Ramesh S/o Subhash Walke,
Age-42 years, Occu:Agricultural,
R/o-Gaothan, Sathemala, Padali,
Ranjangaon, Tq-Parner,
Dist-Ahmednagar,
- 3) Appa @ Appasaheb S/o Subhash Walke,
Age-40 years, Occu:Agricultural,
R/o-Gaothan, Sathemala, Padali,
Ranjangaon, Tq-Parner,
Dist-Ahmednagar.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Police Station Officer,
Belwandi Police Station,
Tq-Shrigonda, Dist-Ahmednagar,
- 2) Dilip S/o- Malan Chandan,
Age-40 years, Occu:Service & Agril.,
R/o-Ukhalgaon, Tq-Shrigonda,
Dist-Ahmednagar.

...RESPONDENTS

...
Mr. G.G. Kadam Advocate for Applicants.
Mr. A.D. Wange, A.P.P. for Respondent No.1.
Mr. S.A. Ambilwade Advocate for Respondent No.2.
...

**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 11th MARCH, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed for quashing the proceedings in R.C.C. No. 690 of 2021 pending before the learned Judicial Magistrate First Class, Shrigonda, District-Ahmednagar, arising out of the First Information Report (for short "the FIR") vide Crime No. 375 of 2021 registered with Belwandi Police Station, District-Ahmednagar on 6th September 2021 for the offence punishable under Sections 420, 447 read with Section 34 of the Indian Penal Code.

2. Heard learned Advocate Mr. Kadam for the applicants, learned APP Mr. Wange for respondent No.1 and learned Advocate Mr. Ambilwade for respondent No.2. In order to cut short, it can be stated that the learned Advocates appearing for the respective parties have argued in support of their contentions.

3. Perusal of the FIR lodged by respondent No.2 would show

that respondent No.2 had entered into an agreement to sell on 24th January 2008, thereby he intended to purchase the property belonging to the present applicants to the extent of remaining 42 R land from Gut No.344 situated at Ukhalgaon, Taluka-Shrigonda, District-Ahmednagar. As the revenue record was standing in the name of Revji Vithoba Walke, the relative of the applicants, it was promised that the applicants would get the property partitioned and then it was decided that sale deed would be executed. The document styled as *Isar Pavti* was done on 28th January 2008, and by that document the possession of 42 R land was given to respondent No.2. The informant says that in April 2019, he came to know that applicant No.1 has got the said 42 R land mutated in his name, however, thereafter when he contacted the applicants with request to execute the sale deed, it was told by applicant No.1 that he has transferred the the said land in the name of his grand sons and since the price of the land has gone up, he has no intention to execute the sale deed. Thereafter the informant came to know that the applicants had executed the sale deed in favour of one Nirmala Dilip Walke on 29th June 2021, when according to the informant, he is the possessor of the property. Therefore, respondent No.2 lodged the report saying that he has been cheated.

4. The statements of the witnesses are on the same line. No doubt there appears to be a document executed, however the perusal of the entire FIR would show that the dispute is of essentially of civil nature. The learned Advocate for the applicants has rightly relied on *Paramjeet Batra vs. State of Uttarakhand and others, (2013) 11 SCC 673*, wherein it has been held that, when a dispute essentially of a civil nature is given the cloak of a criminal offence and if a civil remedy is available, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of Court.

5. Herein this case, there is no explanation as to why immediately after the cause of action arose, respondent No.2 had not approached the appropriate Civil Court. Respondent No.2 has filed affidavit in reply, which is nothing but the replica of the FIR. There also respondent No.2 has offered no explanation as to why he had not taken the recourse of the civil proceedings.

6. If the informant has not persuaded his legal remedies promptly, then definitely this would be a fit case where we

should exercise our powers under Section 482 of the Code of Criminal Procedure. Hence, we pass following order:-

ORDER

(I) The Application stands allowed.

(II) The proceedings in R.C.C. No. 690 of 2021 pending before the learned Judicial Magistrate First Class, Shrigonda, District-Ahmednagar, arising out of the First Information Report vide Crime No. 375 of 2021 registered with Belwandi Police Station, District-Ahmednagar on 6th September 2021 for the offence punishable under Sections 420, 447 read with Section 34 of the Indian Penal Code, stands quashed and set aside as against applicant Nos. 1 to 3 i.e. - 1) Sahebrao S/o Vithoba Walke, 2) Ramesh S/o Subhash Walke, and 3) Appa @ Appasaheb S/o Subhash Walke.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE