



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

CRIMINAL APPLICATION NO. 309 OF 2020

Sandeep Ramrao Biradar,
Age; 35 years, Occ; Agriculture,
R/o; Punyayi Niwas, Near Kore Garden,
Moti Nagar, Latur,
Taluka and District Latur.

...APPLICANT
(Orig. Complainant)

VERSUS

1. Shrikant Chandrakant Hiremath,
Age; 50 years, Occ; Construction Business,
Office : Hariom Developer, Nandi Stop,
Ausa Road, Latur,
R/o; Shri Siddha Niwas, Bhagya Nagar,
Old Ausa Road, Latur.

2. Sau Shailja Shrikant Hiremath,
Age; 43 years, Occ; Household,
R/o; Shri Siddha Niwas, Bhagya Nagar,
Old Ausa Road, Latur.

...RESPONDENT.
(Accused)

...
Advocate for the Applicant : Mr. M.P. Tripathi h/f Mr. N.B. Khandare
...

CORAM : SUSHIL M. GHODESWAR, J.
DATE : 28.11.2025

PER COURT :

1. The applicant is challenging the impugned order dated 23.10.2019, passed in Criminal Revision No. 25 of 2018, by the learned Additional Sessions Judge, Latur, wherein, order dated 23.11.2017 of issuing process against Respondent accused, passed by the Judicial Magistrate, First Class, Latur, Court No.-1, in RCC No. 436 of 2017 came

to be set aside. RCC No. 436 of 2017 was filed by the present applicant against the respondents for registering the offence against respondents under Section 420, 467, 468, 471 and 448 r/w Section 34 of the Indian Penal Code. The learned JMFC vide his order dated 23.11.2017 had issued process against the respondents, which was challenged by the accused persons in Revision before the learned Sessions Judge, Latur.

2. Mr. Tripathi h/s Mr. N.B. Khandare, learned Counsel for applicant submits that the accused persons have prepared false Non Agricultural Permission, wrong sale deed and sold the land of the applicant. According to the applicant, respondent No. 2 prepared forged document by showing 1842.60 Sq. Mtrs. From 1773.7 Sq. Mtrs., as excess area. The learned Counsel for applicant further submits that the Learned Sessions Judge has not properly considered the factual position involved in the matter and as such passed an illegal order. According to him, the Learned Sessions Judge has failed to consider that the allegations against the accused persons are in respect of forgery. They have prepared a false sanction plan and also shown the area belonging to the applicant in their possession by showing additional area thereby putting loss to the applicant. He therefore, submits that since the accused persons have committed the fraudulent act, therefore, the prosecution is justified. Therefore, he prays for quashing and setting aside the order dated 23.10.2019 of setting aside issuing process order.

3. The instant Criminal Application under Section 482 of Code of Criminal Procedure was filed in the year 2020. Since then the instant application is never circulated and/or listed before this Court. Now it is listed for the first time on 20.08.2025. The learned Counsel for the applicant had sought time on 20.08.2025, accordingly by way of a last chance the matter was adjourned and kept today.

4. The order dated 23.10.2019 passed by the learned Sessions Judge is perused. The learned Sessions Judge has considered each and every aspect in detail. The learned Sessions Judge has also observed that the Learned Magistrate was required to take recourse under Section 202 of Cr.P.C. by calling the report of the police or himself was required to make an inquiry. Admittedly, there are civil disputes between the parties and the issues involved in the said complaint is of civil nature. No document was placed before the learned Judicial Magistrate First Class in support of the allegations levelled by the applicant against the respondent/accused. There is also no mentioning as regards who has actually committed encroachment. In the initial inquiry report it is stated that the dispute between parties is of purely of civil nature. It has also come on record that the Civil Suit No. 129 of 2017 is pending before the Civil Court. In paragraph No. 21 of the order, the learned Sessions Judge has also observed as regards the preparation of false documents and selling of excess portion of land. The reasoning given by the learned Sessions Judge is correct and does not require any interference. The

Learned Sessions Judge has passed detailed order, thereby allowing the revision of the accused persons that too in the year 2019.

5. Even otherwise, the applicant was virtually sleeping over his rights, since 2020 and has never circulated the matter thereafter for five years. The petition, therefore, on merit is dismissed with no order as to the costs.

(SUSHIL M. GHODESWAR, J.)

mahajansb/