



(1)

Cri.WP-1840-2024

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1840 OF 2024

Abdul Rajjak Sakaladi Pathan
Age: 65 Years, Occu: Business,
R/o. House No.3882, Nangare Galli,
Ahmednagar.

...PETITIONER

VERSUS

- 1] Sanjay Shankar Supekar,
Age: 52 years, Occu: Business.
- 2] Manoj Shankar Supekar,
Age: 52 years, Occu: Business,
Both above R/o. House No. 3882,
Nangare Galli, Ahmednagar.
- 3] Asha Pramod Jambhale,
Age: 61 Years, Occu: Household
R/o. Pune-Solapur Road,
79, Ravi Garden, Manajri, Pune.
- 4] Bibi Dattatray Vandre,
Age: 65 years, Occu: Household,
R/o. Vivekashi Building,
E405, Rajendra Nagar,
S.P. College, Pune.
- 5] Subhadra Jalindar Jambhle,
Age: 69 years, Occu: Household
R/o. Near Sitara Garden,

Ganraj Colony Rahatni,
Kalewadi, Pune.

- 6] Indubai Bhausahab Dalvi,
Age: 72 years, Occu: Household
R/o. 125, Vinkar Society,
Ahmednagar-Kalyan Road,
Shivajinagar, Ahmednagar.
- 7] Suyog Sanjay Supekar,
Age: 37 years, Occu: Business,
- 8] Akash Manoj Supekar,
Age: 28 years, Occu: Business,
Resp. Nos. 7 & 8 R/o. House No.3882,
Nangare Galli, Ahmednagar.
- 9] Ratna Shivaji Vinchurkar,
Age: 38 years, Occu: Advocacy,
R/o. Shivajinagar, Ahmednagar.
- 10] State of Maharashtra
Through DGP Office, Ahmednagar.

...RESPONDENTS

WITH
CRIMINAL WRIT PETITION NO. 243 OF 2025

- 1] Sanjay Shankar Supekar,
Age: 52 years, Occu: Business.
- 2] Manoj Shankar Supekar,
Age: 52 years, Occu: Business,
Both above R/o. House No. 3882,
Nangare Galli, Ahmednagar.

- 3] Asha Pramod Jambhale,
Age: 61 Years, Occu: Household
R/o. Pune-Solapur Road,
79, Ravi Garden, Manajri, Pune.
- 4] Bibi Dattatray Vandre,
Age: 65 years, Occu: Household,
R/o. Vivekashi Building,
E405, Rajendra Nagar,
S.P. College, Pune.
- 5] Subhadra Jalindar Jambhle,
Age: 69 years, Occu: Household
R/o. Near Sitara Garden,
Ganraj Colony Rahatni,
Kalewadi, Pune.
- 6] Indubai Bhausahab Dalvi,
Age: 72 years, Occu: Household
R/o. 125, Vinkar Society,
Ahmednagar-Kalyan Road,
Shivajinagar, Ahmednagar.

...PETITIONERS**VERSUS**

- 1] The State of Maharashtra
- 2] Abdul Rajjak Sakaladi Pathan
Age: 65 Years, Occu: Business,
R/o. House No.3882, Nangare Galli,
Ahmednagar.

...RESPONDENTS

Mr. Akram Inamdar h/f Mr. S. S. Kazi, Advocates for the petitioners in WP/1840/2024 and Respondent in WP/243/2025.

Mr. Rajendra D. Sanap, Advocate for Respondent Nos. 1 to 9 in WP/1840/2024 and Petitioner in WP/243/2025.

Smt. Chaitali Chaudhari-Kutti, APP for Respondent-State.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 30th JULY 2025.
PRONOUNCED ON : 8th SEPTEMBER 2025.

ORDER :-

1. Heard the parties.
2. Since both the petitions are arising out of same proceedings and facts are also similar, both the petitions are taken up together with consent of the parties, for final disposal.
3. The petitioner in WP/1840/2024, original complainant, has approached this Court challenging the judgment and order dated 2nd July 2024, passed by the learned Sessions Judge, Ahmenagar, in Criminal Revision Application No. 54 of 2024.
4. Writ Petition No.243/2025 is filed by original accused No. 1 to 6 for quashing and setting aside an order passed by learned Sessions

Judge, directing issue process against the present petitioners.

5. The learned Sessions Judge, by way of impugned order, has confirmed the order passed by learned JMFC, Court No.5, Ahmednagar, dated 2nd March 2024 in RCC No.39 of 2024, thereby issuing process only against the Respondent Nos. 1 to 9 under Sections 406, 420, 463, 464, 465, 468 and 471 read with 34 of the Indian Penal Code, 1860. To the remaining extent, the complaint came to be dismissed.

6. The facts, in short, are that the petitioner in WP/1840/2024 filed a complaint against Respondent Nos. 1 to 9 for the offences punishable under Sections 405, 406, 415, 420, 463, 464, 465, 468 and 471 read with 34 of the IPC in the Court of learned JMFC, Court No.5, Ahmednagar. It is alleged that there is a variation in the measurement of the land in the records maintained by the Municipal Authorities. The petitioner, therefore, had filed an Appeal bearing No.1564/2018. However, there was delay in registering the appeal. The said delay was not condoned. Thus, the appeal could not be registered.

7. It is the case of petitioner that, he was given a land by his grandmother by executing a Will. However, his name was not entered in the record. The respondent Nos.1 to 9, in connivance with each other, executed the partition deed. The respondent Nos.1 and 2 were aware that there is a land to the extent of 35.69 sq. meters belonging to the petitioner. Still in the partition, they shown the same as their lands and got partition executed and entered their names in the record.

8. The learned JMFC considered that the complainant had already challenged the mutation entry before the concerned authority. The said mutation entry was rejected and that order was also challenged before the appellate authority. There is also a civil suit filed by the complainant. The learned Trial Court did not find any substance and dismissed the complaint.

9. The learned Sessions Court considered the case and concluded that no case was made out to entertain the complaint and partly allowed the Criminal Revision Application. The learned Sessions Judge set aside

the order of dismissal to the extent of accused No.1 to 6 and maintained the said order in respect of accused Nos. 7 to 9 and directed to issue process against accused No. 1 to 6 for the offences punishable under Sections 465, 468 and 471 read with 34 of the IPC. The petitioner thus has approached this Court to the extent of not allowing the revision as regards accused Nos. 7 to 9 and not issuing process under Sections 405, 406, 415, 420 of IPC.

10. Mr. Inamdar, the learned Advocate for the petitioner in WP/1840/2024 and Respondent in WP/243/2025, vehemently argued that clearly a case is made out even against all the Respondents to issue summons for the offences punishable under Sections 406, 420, 463, 464, 465, 468 and 471 read with 34 of the IPC. The learned Sessions Judge while passing the order has wrongly passed the order to the extent of accused No.7 to 9, in fact, a case is made out against all the accused persons. The process ought to have been issued against all the accused for the alleged offences. It ought to have been considered that the respondents by their act have grabbed the property of the petitioner

which is clearly a criminal act. The petitioner has given all the details in the complaint making out a case of fabrication of documents. The Court ought to have issued process for fabrication as well. There is no dispute about the gift deed executed by grandmother of the petitioner in his favour, still the said land is partitioned by the accused amongst themselves. The collusion is clearly appearing on the face of record. He thus submits that petition be allowed and the process be issued against all the accused under all the sections.

11. Mr. Sanap, the learned Advocate for petitioner in WP/243/2025 and Respondent in WP/1840/2024, vehemently argued that, in fact, no case was made out even to issue process against accused Nos. 1 to 6. The learned Sessions Judge has wrongly considered that case is made out for issuance of process against them for the offences punishable under Sections 465, 468 and 471 of the IPC.

12. In support of his submissions, the learned Advocate Mr. Sanap relied upon the the judgments in the cases of *Sahebrao S/o. Vithoba*

Walke and Ors. Vs. The State of Maharashtra and Anr. passed in Criminal Application No.340/2022 (Aurangabad), and ***Pramjeet Batra Vs. State of Uttarakhand and Ors.***¹

13. Learned APP also prays for an appropriate order.

14. In the case of ***Sahebrao Walke***, (supra), this Court considered that the dispute appears to be of civil nature. When the dispute is essentially of a civil nature, the criminal proceeding deserves to be quashed to prevent an abuse of process of law. In the case of ***Paramjeet Batra*** (supra), the Hon'ble Apex Court held that when dispute appears to be of civil nature and when civil remedies are available, the high Court should not hesitate to quash the criminal proceedings to prevent an abuse of process of law.

15. This Court has considered the submissions and the order passed by the learned JMFC as well as learned Sessions Judge, Ahmednagar. It is seen that the allegation in the complaint is that some portion of land

¹ 2013 (11) SCC 673

was given to the petitioner by his grand-mother by executing a Will. However, no entries in his name is taken in the record. By taking disadvantage of this position, the respondents have grabbed the property and have shown the same to have been partitioned amongst themselves. It is also seen from the record that the petitioner had approached the authority by filing an appeal. However, in view of delay, the appeal could not be registered as delay condonation application itself is rejected. It is also a matter of record that the petitioner has filed substantive suit in the civil court, and the same is pending. It is thus clear that there are remedies available to the petitioner. The learned Sessions Judge has rightly considered this aspect. Some case appears to be made out against the accused Nos. 1 to 6. The Court has, therefore, passed the order.

16. This Court finds that the learned JMFC has rightly passed an order dismissing the complaint. The learned Sessions Judge failed to properly appreciate the order passed by the learned JMFC and wrongly passed the order. It is a matter of record that there was a proceeding filed by the complainant before the authorities. However, the same was not

entertained on the ground of delay. It is also a matter of record that the complainant has filed a civil suit which is pending. His claim is on the basis of Will-deed executed by his grandmother. On this, the facts essentially show that the dispute is of civil nature. No ingredients of any of the offences are present. This Court, therefore, finds that continuing with the complaint would be clearly an abuse of process of law. The order passed by the learned Sessions Judge therefore deserves to be set aside. Hence, the following order:

ORDER

- (i) Criminal Writ Petition No. 1840 of 2024 stands dismissed.
- (ii) Criminal Writ Petition No.243 of 2025 stands allowed in terms of prayer clause (B).
- (iii) With this, both writ petition stands disposed off.

[KISHORE C. SANT, J.]