



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

931 CRIMINAL WRIT PETITION NO. 1056 OF 2024

**RAJARAM BHAUSAHEB CHOURE AND ANOTHER
VERSUS
KIRAN BHAUSAHEB CHOURE AND ANOTHER**

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Advocate for the Petitioner : Mr. Garud N.C.
APP for Respondents/State : Mr. S.M. Ganachari
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**CORAM : Y.G. KHOBRAGADE, J.
DATE : 21.01.2025**

PC:-

1. Heard advocate Mr. N.C. Garud, the learned counsel appearing for the Petitioners, at length.
2. The Petitioners have invoked the jurisdiction of this Court under Articles 226 and 227 of the Constitution of India, read with Section 482 of the CrPC, questioning the legality and validity of the judgment and order dated 10.11.2022 passed by the learned Sessions Court, Ahmednagar, in Criminal Revision Application No. 32/2022. This application arose from the order dated 05.01.2022 passed by the learned Additional Chief Judicial Magistrate, Court No. 12, Ahmednagar, in RCC No. 344/2017.

3. The Petitioners are the original complainants in RCC No. 344/2017, and the respondent is the accused. For the sake of brevity, the parties to the present petition will be referred to in their original capacities as 'complainants' and 'accused'.

4. The Petitioners have filed complaint RCC No.344/2017 alleging that, Smt. Laxmibai w/o Bhausahab Choure, the mother of the complainants and Accused was holding Plot No.13, CTS No.216/3 near Ambika Vidyalaya, Kedgaon, District Ahmednagar. The said plot was given CTS No.1017 to 1021, but due to some matrimonial differences, the Accused was residing with their mother Smt. Laxmibai and they were residing separately. The Complainants further alleged that w.e.f. 28.09.2013 to 04.10.2013 their mother Smt. Laxmibai was admitted in Anand Rushi Hospital, however, the Accused withdrew a large amount from ADCC Bank Account of their mother on the basis of fake and fabricated documents and under the false signature/thumb impression of their mother. Further, the Accused also got mutated his name in respect of house no.231 A+B+C bearing CTS No.1021 on the basis of false and fabricated documents with an ulterior motive to deprive their right. The Petitioners/Complainants further alleged that on the basis of false and bogus will-deed, the Accused got mutated his name in the City Survey record in connivance with the City Survey Officers. The accused tampered with the

municipal council record using false, fabricated, and bogus deeds/will deeds. Therefore, the Accused committed an offence under Sections 420, 467, 468, 469, 471 of the I.P.C., hence, prayed for award of appropriate punishment.

5. On 05.01.2022, the learned Additional CJM, Ahmednagar passed an order holding that the Complainant No.1 led his evidence at Exh.33 partly. Since evidence of the Complainant was partly recorded under Section 244 of the Cr.P.C. and subsequently he remained absent. In Exh.33 the Complainant stated that C.T. Survey No.1021 was purchased by him and his brother Dilip in the name of their mother Smt. Laxmibai. However, his brother Shri Dilip raised construction over 600 sq.ft but left other portion of the plot. The Complainants alleged that the Accused instigated their mother to institute a suit but it was withdrawn subsequently. Thereafter, the Complainant's mother was unwell and went into coma. Therefore, the evidence adduced by the complainants does not fulfill the essential ingredients required to constitute the offences under Section 420, 467, 468, 469 and 471 of the I.P.C.

6. Being aggrieved by said order, the Petitioners invoked jurisdiction under Section 397 by filing Criminal Revision No.32/2022. On 10.11.2022, the learned Sessions Court passed the impugned order and holding that the Complainants have already filed Special Civil Suit No.213/2015 for declaring the Will-Deed as sham, bogus and the same not binding upon them. The

complainants further prayed for injunction in respect of the same property.

7. The complainants have alleged that their brother, the accused, committed offences under Section 420, 467, 468, 469 and 471 of the I.P.C. by mutating his name with the revenue authorities based on a false and fabricated will-deed. Therefore, it appears that the dispute between the Complainants and Accused is purely of a civil nature and Civil Suit is already initiated seeking declaration that the Will-Deed is bogus and not binding upon them. Therefore, to my view, the Petitioners have not brought any material to constitute offences under Section 420, 467, 468, 469, 471 of the I.P.C. In view of the above discussion, I find no illegality in the orders passed by the learned Courts below. Hence, no interference is warranted by this Court. Accordingly, the Petition is dismissed.

[Y.G. KHOBRADE, J.]