



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

3 CRIMINAL APPLICATION NO.2509 OF 2024

- 1 Mohan Damodhar Ranade,
Age 64 yrs., Occ. Retired/Agri.,
R/o Kumbharwada, Aurangabad,
Tq. & Dist. Aurangabad.
- 2 Hemlata Mohan Ranade,
Age 56 yrs., Occ. Agri.,
R/o Kumbharwada, Aurangabad,
Tq. & Dist. Aurangabad.

... Applicants

... Versus ...

- 1 The State of Maharashtra
Through Police Station,
Khultabad, Tq. Khultabad,
Dist. Aurangabad.
- 2 Kanhaiyya Damodhar Ranade,
Age yrs., Occ. Agri.,
R/o Kumbharwada, Aurangabad,
Tq. & Dist. Aurangabad.

... Respondents

...

Mr. J.V. Deshpande, Advocate for applicants

Mr. G.A. Kulkarni, APP for respondent No.1

...

CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.

DATE : 06th FEBRUARY, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed for quashment of the proceedings bearing Regular Criminal Case No.32/2016 pending before learned Judicial Magistrate First Class, Khultabad, Tq. Khultabad, Dist. Aurangabad arising out of First Information Report vide Crime No.69/2014 dated 02.05.2014 registered with Police Station, Khultabad, for the offence punishable under Section 420, 465, 467, 468, 471, 120(B) read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. J.V. Deshpande for applicants and learned APP Mr. G.A. Kulkarni for respondent No.1. There is no necessity to issue notice to respondent No.2 as we have come to the conclusion that this is not a fit case where we can exercise our powers under Section 482 of the Code of Criminal Procedure for the following reasons.

3 Learned Advocate for applicants has taken us through the entire charge sheet and submits that present First Information Report is the result of order passed under Section 156(3) of the Code of Criminal Procedure by learned Judicial Magistrate First Class, Khultabad on 04.04.2014 in Criminal

Miscellaneous Application No.22/2014. Perusal of First Information Report would show that it was a civil dispute which has been given criminal angle. In fact, the partition had taken place long back. If respondent No.2 was deprived of his rights, then he ought to have approached the Civil Court. He has, in fact, sold his share and now he is claiming the share from applicant No.1. There is no question of cheating anybody nor there was question of conspiracy in creating forged documents. Therefore, the proceeding deserves to be quashed and set aside.

4 The first and the foremost fact to be noted is that the charge sheet in this case has been filed on 30.10.2015 and it appears that it has been registered in 2016, but the applicants are approaching this Court in 2024. Whether they are regularly appearing before the concerned Court or not, is a question. If a party is not regularly appearing before the concerned Court, then that party is not entitled to get discretionary relief or the relief which is under inherent powers. The contents of First Information Report would show that there was ancestral property bearing Gat No.56 situated at village Mhaismal, Tq. Khultabad admeasuring 09 H 04 R (*potkharab* 14 R). One Damodhar Ranade was father of respondent No.2 and applicant No.1. During his lifetime it was divided between father and himself, equally. His father expired in 2006 and since then the land is in his name and possession.

Applicant Nos.1 and 2 are his brother and brother's wife, who intended to grab the property. On 11.02.2014 when he had taken 7/12 extract from Talathi, he found Mutation Entry No.3074, in which in his place name of his sister-in-law (brother's wife) to the extent of 04 H 42 R. There was no partition in between informant and applicant No.1 nor there was question of giving property to brother's wife, however, a forged partition deed appears to have been got executed and on the basis of same the said mutation entry has been taken.

5 It is to be noted that a document is stated to have been got prepared and it is stated to be a forged document. A copy of the document appears to have been collected, which according to informant is a forged document. Thus, when respondent No.2 states that it is not his signature on the said document, then there is some substance in the allegations which cannot be said to be only a civil dispute. Hence, this is not a fit case to exercise powers under Section 482 of the Code of Criminal Procedure. Application, therefore, stands rejected.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)