



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

CRIMINAL APPLICATION NO. 2446 OF 2023

Pandharinath Waman Patil And Others

.. Applicants

Versus

The State Of Maharashtra And Another

.. Respondents

Mr. L. V. Sangit, Advocate for the Applicants.

Smt. Chaitali Chaudhari-Kutti, APP for Respondent No. 1.

CORAM : KISHORE C. SANT, J.

DATE : 06th AUGUST, 2025.

PER COURT :-

. Heard learned advocate for the applicants and learned A.P.P. for the State.

2. In spite of service on several occasions including notice for final disposal, none appears for respondent No. 2. On earlier occasion, advocate Mr. Nagargoje had informed the Court that he has received instructions to appear in the matter and adjournments were sought on that count. However, on the last occasion i.e. on 16.07.2025 the learned advocate Mr. Nagargoje informs that, in spite of several attempts to get

instructions, he is not getting any response from respondent No. 2. This Court, looking to the conduct of the respondent No. 2 has passed an order that even if none appears on the next date for respondent No. 2, the matter will be heard for final disposal. The matter is, therefore, taken up for final disposal.

3. Respondent No. 2 filed Criminal Misc. Application No. 82/2014 in the Court of learned J.M.F.C., Yawal seeking directions under Section 156(3) of the Code of Criminal Procedure against the present applicants. The learned Trial Court, however, recorded verification and thereafter issued process by order dated 15.05.2023 against the present applicants. The applicants are thus before this Court for quashing of the proceeding and the order passed by the learned J.M.F.C. Now, the said case is registered as R.C.C. No. 56/2024.

4. It is alleged in the complaint that the land Gat No. 18 came to be acquired by the Government in which the complainant had 50% share. Though the complainant had share in the property, the entire compensation is taken by the applicants. It is thus alleged that the present applicants have committed an offence

punishable under Sections 420, 417, 406 r/w Section 34 of the Indian Penal Code (for short “I.P.C.”). The case was re-registered as regular criminal case and thereafter, process came to be issued. The applicants have thus approached this Court.

5. The learned advocate Mr. Sangit for the applicants vehemently argued that, in fact, no case is made out. He argued that, in fact, the applicants are the original owners of the land along with other lands. There were two brothers namely Waman Patil and Yadav Patil. All the applicants are from the branch of Waman Patil whereas, the respondent No. 2 is from the branch of Yadav Patil. The partition had taken place long back in the year 2005. A mutation entry also came to be effected on the basis of said partition bearing mutation entry No. 545 dated 07.02.2005. In the partition the entire land Gat No. 18 was given to the share of Waman Sitaram Patil. Yadav Patil was given some other land at some other places. Thus, the branch of Yadav Patil does not have any right in land Gat No. 18. Even the notifications were issued under the Land Acquisition Act to show the land stands in the name of Waman Patil and still no objection was registered. During the lifetime of Waman Patil and Yadav Patil no any proceeding was

filed. The respondent No. 2 along with others had even filed RTS Revision No. 7/2014 before the learned S.D.O., Faijpur challenging the mutation entry No. 545. The learned S.D.O. rejected the revision application by order dated 27.10.2014. The respondent No. 2 along with others carried the said order in Appeal No. 242/2014 in the Court of learned Additional Collector, Jalgaon. The learned Additional Collector, Jalgaon by order dated 19.04.2017 dismissed the said appeal.

6. He further points out that the respondent No. 2 and others had even filed R.C.S. No. 183/2014 in the Court of learned C.J.S.D., Bhusawal. The learned C.J.S.D. specifically framed the issues as to whether the plaintiffs proved that the suit property is joint family property and as to whether the plaintiffs have undivided share in the suit property. A specific finding is recorded and the suit came to be dismissed on 04.02.2023. The learned advocate thus submits that, when the respondent has no right in the property, still he filed complaint in the year 2014. On legal submissions he submits that there is no averment in the entire complaint to show that the property was delivered to the present applicants by the respondent by full means or is taken by the

present applicants by deceitful means. There is no averment in the complaint that the property was entrusted by the respondent to the applicants. He thus submits that in absence of this averment, no complaint could have been considered by the learned J.M.F.C. The learned J.M.F.C. has also directed to register the regular criminal case without considering these aspects. No satisfaction of the learned J.M.F.C. is appearing from the order. He thus submits that the proceeding itself is not maintainable and deserves to be quashed.

7. The learned A.P.P. prays for passing appropriate order.

8. This Court has gone through the complaint. The complaint is only that the respondent No. 2 has share in land Gat No. 18. The applicants have taken the amount of compensation towards acquisition of land Gat No. 18. Further averment in the complaint shows that he has 50% share in the property. Except that, there is no averment showing that there was entrustment of property by the respondent with the petitioner. The order passed by the learned J.M.F.C. is also silent as to what made the learned J.M.F.C. to come to conclusion that the case is made out under Sections

420, 417, 406 r/w Section 34 of the I.P.C. This Court has seen the order passed in R.C.S. No. 183/2014. This Court has also gone through the orders passed by the learned S.D.O., Faijpur and learned Additional Collector, Jalgaon. However, from the orders it is clear that, the respondent No. 2 has no share in the property. It is clearly shown that the respondent No. 2 has lodged the complaint without making out the case of cheating or in the manner that the property was entrusted by the respondent to the applicants and has still filed the complaint. Continuation of the proceeding would certainly be an abuse of process of law. This Court is convinced that the complaint and proceeding deserves to be quashed.

9. In view of the above, criminal Application is allowed in terms of prayer clause (A).

10. Criminal Application stands disposed of.

(KISHORE C. SANT, J.)

P.S.B.