



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

911 CRIMINAL APPLICATION NO. 2769 OF 2023

**RUKHMINIBAI W/O RAM WANKHEDE
VERSUS
JONSON PAKHARE YASHVANTA PAKHARE**

....

Mr. N. M. Deshpande, Advocate for the Applicant
Mr. V. B. Kulkarni, Advocate for Respondent No.1

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 25.02.2025

PER COURT :-

1. Heard at length the learned counsel for the Applicant and the learned counsel for the Non-Applicant.

2. By the present Application under Section 482 of the Code of Criminal Process, the Applicant puts forth prayer clauses (a), (b) and (f) as under:-

“a. That the Hon’ble Court be pleased to quash and set aside the Complaint filed under S. 156(3) of Code of Criminal Procedure, 1973 having Regular Criminal Case No.461 of 2014 before the Judicial Magistrate First Class, Jalna for a direction for registration of the offence under S. 420, 442, 464, 468, 471, 199, 200 and S. 34 of Indian Penal Code, 1860 and as per S. 3(1)4, 3(1)5, 3(1)8, 3(1)9 of the Atrocities Act, on 29.10.2010.

b. That the Hon'ble Court be pleased to stay the Complaint filed under S. 156(3) of Code of Criminal Procedure, 1973 having Regular Criminal Case No.461 of 2014 before the Judicial Magistrate First Class, Jalna for a direction for registration of the offence under S. 420, 442, 464, 468, 471, 199, 200 and S. 34 of Indian Penal Code, 1860 and as per S. 3(1)4, 3(1)(5), 3(1)8, 3(1)9 of the Atrocities Act, on 29.10.2010."

f. In the alternative, to direct the Judicial Magistrate First Class to expedite trial of Regular Criminal Case No. 461 of 2014.

3. The present Applicant is the original accused No.2 and the Non-Applicant is the original complainant in Misc. Criminal Application No.21 of 2010. For the sake of convenience parties to the present application will be referred in their original capacity.

4. The learned counsel for the Applicant/Accused No. 2 canvassed that, the Applicant is the President of Tulja Bhavani Mahila Mandal, Gandhinagar, Jalna, registered under the Maharashtra Societies Act. The complainant has filed a complaint i.e. Misc. Criminal Application No.21 of 2010, which is registered as R.C.C. No.461 of 2014 after passing the order under Section 156(3) of Cr.P.C.. The Complainant alleged that, the accused, in furtherance of their common intention, entered into an agreement to sell registered

with a Notary and tried to transfer the property of trust namely, ***“Krantiveer Lahuji Ustad Salve Bahuuddeshiya Vishwasta Manda”***, Gandhinagar, Jalna. In pursuance of said agreement to Sale registered with the Notary on 06.01.2010, the accused tried to mutate names with revenue record of the local authority/ in property card. It is further canvassed that, the document notarised by the Notary is not a registered document within the meaning of Registration Act and no such entry is made in the property card on the basis of alleged notarised document, hence, offence does not constitute, therefore, prayed to quash the complaint.

5. Per contra, the learned counsel appearing for the Respondent/complainant canvass that, the documents produced by the complainant *prima-facie* shows that, the accused executed the false and bogus agreement to sale in respect of trust's property and registered with the public notary without prior permission of the Charity Commissioner/ Assistant Charity Commissioner and mutated name of the vendee. Therefore, on 18.01.2011, the learned Chief Judicial Magistrate passed a detailed order, satisfying himself about the existence of grounds to constitute the offences for the offences u/s 420, 468, 471, 199, 200 r/w 34 of IPC and issued process against the

accused and taken cognizance. Therefore, prayed for dismissal of the application.

6. I have gone through the record. It is a matter of record that, the Complainant filed the complaint bearing Misc. Criminal Application No.21 of 2010 and prayed for investigation u/s 156 (3) of Cri.P.C., for the offences u/s 420, 442, 464, 468, 471, 199, 200 r/w 34 of IPC on ground that, the land Survey No. 265 admeasuring 200 X 200 Sq. Ft., Gandhinagar Jalna, is in possession of the complainant and said land is owned by the Trust namely ***“Krantiveer Lahuji Ustad Salve Bahuuddeshiya Vishwasta Manda”***. However, on 06.01.2010, the accused Nos. 2 and 3 entered into an Agreement to Sell in favour of Accused no. 1 in respect of land admeasuring 200 X 200 Sq. Ft. out of 2 Acres 15 Guntha from Survey No. 265. The Accused executed the said Agreement to Sell and registered it with the Public Notary to cheat the Public Trust. It is further alleged that the Accused have prepared false and bogus documents and committed the offences.

7. Needless to say that, after recording verification, on 21.07.2014, the learned Chief Judicial Magistrate passed an order and issued process against the accused persons for the offences under Section 420, 442, 464, 465, 471, 194, 200 of I.P.C. By the present

application u/s 482, the Applicant/accused prays for quashing and setting aside criminal proceedings bearing R.C.C. No. 461 of 2014 against him.

8. On face of record it appears that, the learned Chief Judicial Magistrate has already taken cognizance for the offences considering material placed on record which shows about existence of grounds to proceed as against the present Applicant for the alleged offences. Therefore, I do not find any substance in the present Application for quashment of the criminal complaint by invoking Sec. 482 of Cri. P. C. Accordingly, the Criminal Application is dismissed.

[Y. G. KHOBRADE, J.]

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