



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

907 CRIMINAL WRIT PETITION NO. 1624 OF 2024

**SHEHZADI BEGUM SYED YUSUF AND OTHERS
VERSUS
SHAIKH MAJEED SHAIKH MEHBOOB**

....
Mr. N. S. Muthiyan, Advocate for the Petitioners

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 31.01.2025

PER COURT :-

1. Heard Mr. Muthiyan, the learned counsel for the Petitioners at length.

2. By the present Petition, the Petitioners have taken exception to the order dated 11.07.2024, passed by the learned Additional Sessions Judge, Chhatrapati Sambhajinagar (Aurangabad) in Criminal Revision No.316 of 2023, thereby affirmed the order of issuance of process passed by the learned Judicial Magistrate, First Class, Court No.3, Aurangabad on 12-09-2023 in Criminal Misc. Application No.744 of 2021 for the offence

under Section 120B, 420, 465, 467, 468, 471, 474 read with Section 34 of the Indian Penal Code.

3. The Petitioners are the original accused Nos. 1 to 3 and the Respondent is the original complainant. For the sake of brevity, I would like to refer the parties to the present Petition in their original capacity.

4. The complainant filed a Criminal Misc. Application No.744 of 2021, which was re-registered as R.C.C. No.2211 of 2023, alleging that, her mother and the mother of accused No.1 i.e. Mrs. Karima Begum Shaikh Mehmood, died in the month of April 2008. The father of informants and accused No.1 Mr. Shaikh Mehmood Shaikh Sandu @ Asad Miya, died on 23.08.2018, by leaving the complainant, accused No.1 and others 7 sisters and brothers.

5. According to the complainant, her father had executed a sale-deed on 23.08.2019 in respect of the property bearing city survey No.3217 admeasuring 81.54 square meters on Rs.100/- stamp paper and got it registered with the Public Notary. After a lapse of 2 months from the death of her father, her all siblings decided to Sell said property. However, the accused Nos. 1 and 2 visited at the house of

the complainant and disclosed about execution of gift-deed (Hibanama) in respect of said property in the name of accused No.1. Therefore, the complainant collected the material documents from the city survey and came to know that, the accused Nos. 1 and 2 in their connivance, prepared false and fabricated gift-deed (Hibanama) and got transferred the property bearing city survey No.3217 in their name under the forge and fabricated signature of her deceased father. Initially, the complainant was approached with the City Chowk police station and lodged a report dated 15.09.2020, but no action was taken. Therefore, the complainant prayed for inquiry under Section 156(3) of Cr.PC.

6. On 13.07.2022, the learned J.M.F.C. passed an order and called upon the complainant to give statement under Section 200 of Cr.PC. Accordingly, the complainant examined himself and other witnesses Abdul Irfan Abdul Quadar Khatri, Shaikh Habib Shaikh Husain and Faridabee. On 12.09.2023, the learned J.M.F.C. passed an order after satisfying and considering the statements of witnesses as well as averments made in the complaint that the complainant has made out a *prima-facie* case for issuance of process. Accordingly, the process was issued as against the present Petitioners/accused for the

offences punishable under Sections 120B, 420, 465, 457, 468, 471, 474 read with 34 of I.P.C.

7. In support of the submissions, the learned counsel for the Petitioners relied on the case of ***Indra Kumar Patodia & Anr Vs. Reliance Industries Ltd. And Ors [Supreme Court of India Criminal Appeal No.1837 of 2012]***, wherein it has been observed thus:-

“Mere presentation of the complaint is only the first step and no action can be taken unless the process of verification is complete and, thereafter, the Magistrate has to consider the statement on oath, that is, the verification statement under Section 200 and the statement of any witness, and the Magistrate has to decide whether there is sufficient ground to proceed.”

8. Being aggrieved by the said order, the Petitioner/Accused invoked the jurisdiction under Section 397 of Cr.P.C. by filing Criminal Revision Application No.316 of 2023. On 11.07.2024, the learned Revisional Court passed the impugned order holding that, as per the averments made in the complaint and the verification recorded, the complainant has made out a *prima-facie* case that, the Hibanama was not executed by the father of the complainant in presence of the witnesses. Therefore, there is every possibility for preparation of the false and fabricated Hibanama under fake signature of father of the

complainant cannot be ruled out. As per the averments made in the complaint as well as the statements of the witnesses, the complainant has brought sufficient material on record to constitute the offences as alleged by the complainant. Accordingly, the learned J.M.F.C. passed an order and issued process.

9. Needless to say that, on perusal of record it appears that, both the Courts below concurrently held about existence of *prima-facie* grounds to prosecute the present Petitioners/accused. Therefore, I do not find that the findings recorded by both the Courts below are illegal, perverse or bad in law. Therefore, no interference is called at the hands of this Court. Hence, the Writ Petition is dismissed.

[Y. G. KHOBRAGADE, J.]