



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2916 OF 2021

1. Raju Habib Shaikh
Age: 31 years, Occu.: Business,
R/o. Sahajapur, Tq. And Dist. Aurangabad.
2. Pravin s/o Sakharam Shiledar
Age: 38 years, Occu.: Business,
R/o. Jayakwadi North, Paithan,
Tq. And Dist. Aurangabad.
3. Shaikh Faruk Shaikh Sandu
Age: 45 years, Occu.: Business,
R/o. Ghar No.29, Shanti Provision,
Pandharpur, Tisgaon,
Tq. And Dist. Aurangabad.

.. Applicants

Versus

1. The State of Maharashtra
Through the Officer Incharge,
Satara Police Station,
Taluka and District Aurangabad.
2. Gurcharansingh @ Kulwantsingh s/o
Jaswantsingh Khanduja
Age: 64 years, Occu.: Business,
R/o. House No.70, Shreyanagar,
Usmanpura, Aurangabad.

.. Respondents

...

Mr. Akshay D. Kulkarni, Advocate for the applicants.
Mr. S. A. Gaikwad, APP for respondent No.1/State.
Mr. V. S. Wakale, Advocate for respondent No.2 (Absent).

...

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

DATE : 01 APRIL 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present application has been filed initially for quashing the FIR vide Crime No.352 of 2021 dated 17.07.2021 registered with Satara Police Station, District Aurangabad and later on, by way of amendment, for quashing the proceedings in R.C.C. No.294 of 2023 pending before the learned 11th Judicial Magistrate First Class, Aurangabad for the offences punishable under Sections 417, 419, 420, 467, 468, 471 read with Section 34 of Indian Penal Code.

2. Heard learned Advocate Mr. Akshay D. Kulkarni for the applicants, learned APP Mr. S. A. Gaikwad for respondent No.1/State and learned Advocate Mr. V. S. Wakale for respondent No.2 (Absent).

3. After the disinclination is shown to grant any relief in favour of applicant No.1, learned Advocate appearing for the applicants, upon instructions, seeks withdrawal of the application as against applicant No.1. There is no hurdle in accepting the said prayer. The matter proceeded for the reliefs claimed on behalf of applicant Nos.2 ad 3 and therefore, we would consider the facts in a capsule manner.

4. Respondent No.2 is the original informant. In fact, he had filed Criminal Miscellaneous Application No.707 of 2021 before the learned Judicial Magistrate First Class, Aurangabad for seeking investigation

under Section 156(3) of the Code of Criminal Procedure, as his FIR was not got registered. The learned Judicial Magistrate First Class, Court No.14, Aurangabad allowed the said application on 29.06.2021 and directed the officer in-charge of Satara Police Station to investigate the matter under Section 156(3) of the Code of Criminal Procedure. Thereupon, the present FIR was filed and after completion of the investigation, charge-sheet is filed.

5. In Criminal Miscellaneous Application as well as in the FIR, respondent No.2 informant contended that he was the owner of immovable property, Old Survey No.17, which is numbered as City Survey No.15299. Out of that, plot No.148, 149 and 150 admeasuring in all 1800 square feet situated in Gajanan Colony, Garkheda, Aurangabad was his self acquired property by way of sale deed dated 02.08.1996. He sold the said plot to Sunil Trimbak Tupe and Pushpa Bhausahab Salunke by agreement to sale dated 12.10.2018 and registered sale deed dated 10.02.2021. The possession of the property was given a day earlier i.e. on 09.02.2021 to Mr. Tupe. Mr. Tupe had made preparation for erection of compound and then put a board to that effect by performing a Pooja. Thereafter, on 14.10.2021, applicant No.1, his son applicant – Pravin Shiledar and other 3-4 persons went to the spot and told Mr. Tupe that in fact applicant No.1 has purchased the said property way back on 22.03.2019. Tupe had then informed the said fact to the

informant on phone. Therefore, respondent No.2 gathered the information. There were family disputes between the informant and his son and it appears that by impersonating respondent No.2, his son and original applicant No.1 have created some false documents. The said document of sale deed allegedly in the favour of applicant No.1 does not bear the signature and thumb mark of the informant.

6. Here, after the investigation, the facts emerge that applicant No.3 is the witness to the document of sale deed dated 22.03.2019, a copy of which is part of the charge-sheet and it shows that present respondent No.2 had sold the property to applicant No.1 and even son of respondent No.2 is one of the witness to the said document. Now, except this document showing some involvement of applicant No.3, there is nothing on record. We cannot presume that applicant No.3 had the knowledge that respondent No.2 has been impersonated and the documents which were relied by applicant No.1 were not the real documents of respondent No.2. Mere statement to the effect that there was conspiracy between applicant No.1 and applicant No.3 will not be the sufficient evidence.

7. As regards applicant No.2 is concerned, it appears that he is the purchaser from applicant No.1. He has purchased the said property from applicant No.1 on 22.03.2019. In respect of him also there is absolutely no evidence that he had the knowledge that the sale deed in favour of

applicant No.1 is the outcome of fraud and impersonation. Therefore, except on the bare statements, we cannot say that there is any evidence which will support the trial of applicant Nos.2 and 3. Rather it would be unjust to ask them to face the trial on the basis of cryptic evidence and therefore, in favour of applicant Nos.2 and 3, case is made out for exercising powers under Section 482 of the Code of Criminal Procedure. Hence, the following order :-

ORDER

- I) Criminal Application stands partly allowed.
- II) Criminal Application stands disposed of as withdrawn as against applicant No.1.
- III) The FIR vide Crime No.352 of 2021 dated 17.07.2021 registered with Satara Police Station, District Aurangabad as well as the proceedings in R.C.C. No.294 of 2023 pending before the learned 11th Judicial Magistrate First Class, Aurangabad for the offences punishable under Sections 417, 419, 420, 467, 468, 471 read with Section 34 of Indian Penal Code, stand quashed and set aside as against applicant No.2 - **Pravin s/o Sakharam Shiledar** and applicant No.3 - **Shaikh Faruk Shaikh Sandu**.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm