



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

**CRIMINAL WRIT PETITION NO. 1486 OF 2022
RAVINDRA SHRIKANT SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND ANR.
WITH
CRIMINAL WRIT PETITION NO. 1749 OF 2022
SURESH RAMBHAU KARDILE
VERSUS
DATTATRAYA MUKINDA KHADE AND ANOTHER**

Mr.A.S.Jagtap h/f. Mr. S.R. Zambare, Advocate for the petitioner [in WP No. 1486/2022]

Mr.N.C. Garud, Advocate for the petitioner [in WP No. 1749/2022].

Smt. A.S. Deshmukh, A.P.P. for respondent No.1/State.

Mr. R.S. Kasar, Advocate for respondent No.2.

**CORAM : KISHORE C. SANT, J.
RESERVED ON : 10.07.2025
PRONOUNCED ON : 17.07.2025**

ORDER :-

01. Present Criminal Writ Petitions arise out of common judgment and order dated 25.08.2022 passed by learned Sessions Court, Ahmednagar in Criminal Revision Application Nos. 39 of 2022 and 46 of 2022, thereby confirming order dated 21.03.2022 passed by learned Judicial Magistrate, First Class, Parner, whereby he rejected the discharge applications (Exhs. 24 and 28) filed by the accused, in RCC No. 106 of 2014.

02. A private complaint came to be filed by respondent No.2. The learned Court directed registration of a crime on the complaint. On the basis of the order passed by the Court an offence came to be registered bearing F.I.R. No. 216 of 2013 at Parner Police Station for the offence punishable under section 420, 468, 471 and 167 r/w 34 of the Indian Penal Code. Pursuant to the investigation, a charge-sheet came to be filed on 31.07.2014. The petitioner had earlier approached this Court by filing Criminal Application No. 807 of 2016 for quashing of the case. This Court, however, dismissed the Criminal Application granting liberty to approach the appropriate Court. It is, thereafter, the petitioners filed discharge application. The learned JMFC, Parner rejected the applications by order dated 21.03.2022. The petitioners challenged said order by filing Criminal Revision Applications before the Sessions Court at Ahmednagar. Same came to be rejected and thus the petitioners have approached this Court.

03. In short, the complaint of respondent No.2 is that the respondent is having land Gat No. 109, wherein there is one well. Gat No. 110 is on the east side of the land of the informant. In land Gat No. 110, there is also one well. It is alleged that accused No.2 is purchaser of land Gat No. 110. Allegation against accused No. 1 is that he happens

to be Talathi, who made bogus entries showing two wells in land Gat No.110. Thus, preparing bogus 7/12 extract land is sold by showing two wells and therefore the complainant is deceived and on that allegation complaint came to be filed.

04. It is case of the petitioner/accused No.2 that in-fact he purchased the land Gat No. 110 from his vendor. The complainant has no concern with the said transaction. The complaint itself is on false pretext. There is also civil proceeding going on between the parties. There is no question of deceiving the informant, when he is not a party to the sale-deed. There is no material in the charge-sheet against the present petitioner to proceed against him. There is no material in the entire charge-sheet against the present petitioners to proceed against him. The learned Trial Judge failed to appreciate this fact and has wrongly rejected the applications. Even the learned Sessions Judge failed to appreciate this material aspect.

05. The learned Advocate for the petitioners vehemently argued that taking allegations and material as it is, no offence is made out. There is no material on record. It ought to have been considered that the complainant is having his separate land, with well in it. The transaction

is in respect of land No. 110. There is no evidence and material on record to proceed against the petitioners to frame a charge. The application for discharge ought to have been, therefore, allowed.

06. Learned APP as well as learned Advocate for respondent No.2 vehemently opposed the writ petition. It is submitted that from the facts stated in the complaint, it is clear that the offence is made out under sections 420, 468, 167 & 471 of the Indian Penal Code. When there is only one well situated in land gat No. 110, still the petitioner has shown that there are two wells in land No. 110. In-fact, well in land Gat No.109 is tried to be shown in land Gat No. 110 and this is how the offence is committed. Both the Courts have rightly held that there is sufficient material on record and have rightly passed the order. There are police statements of the informant and his mother. The Sessions Court considered the entries in the Revenue Record showing that since 1999-2000 to 2004-05 only one well is shown in land Gat No. 110. From 2005-06 to 2010-11 also only one well is shown. However, it is from 2012-2013, two wells are shown in land Gat No. 110. When a statement of Talathi was recorded in the spot inspection, only one well was found in Gat No. 110. It is only on that the Sub-Divisional Officer granted sanction to prosecute accused No.1. On this evidence, it is submitted

that there is sufficient material on record to frame charges against accused persons. It is thus prayed that the order passed by the Sessions Court be confirmed by dismissing the Criminal Writ Petitions.

07. Learned Advocate for the petitioner relied upon judgment in the case of **Mohammed Ibrahim and Ors. Vs. State of Bihar & Anr., (2009) 8 SCC 751** and judgment of this Court in the case of **Pankaj s/o. Sambhaji Kate Vs. State of Maharashtra & Anr., (Criminal Application No. 1636 of 2023 - Aurangabad)**.

. In the case of **Mohammed [supra]**, the Hon'ble Apex Court held that when the dispute is essentially of civil nature and filed as criminal complaint, it is duty of the Court to check that the Court process is not abused. It is duty of the Criminal Court to see that the criminal proceedings are not exercised for settling personal score or pressurizing the parties to settle civil dispute. In respect of false documents, it is held that a person is said to have made false document if (i) he made or executed a document claiming to be someone else or authorised by some one else; or (ii) he altered or tampered with a document; or (iii) he obtained a document by practising deception, or from a person not in control of his senses. The Hon'ble Apex Court further considered forgery of documents purporting to be a valuable security and using of forged

documents as genuine and considered the ingredients. The Hon'ble Apex Court further considered section 415 i.e. cheating and section 24 of the Indian Penal Code.

. In the case of **Pankaj s/o. Sambhaji Kate [supra]**, the Division Bench of this Court considered the offence of forgery. In that case it was seen that there was absolutely no material on record even to remotely suggest that the applicant/purchaser has tampered documents or was involved with the alleged act in any manner. It was alleged in that case that the applicant therein had paid consideration for purchase of the property. However, there was no allegation that sale was under valued. There was no material to attribute the alleged wrong to the applicant. It was held that it would not be appropriate to make the accused face trial. In the said judgment, this Court also considered judgment of the Hon'ble Apex Court in the case of **State of Haryana Vs. Bhajanlal reported in AIR 1992 SC 604.**

08. In the present case admittedly there is civil dispute pending between the parties. The suit is filed by accused No.2 against respondent No.2/complainant in which there is order in favour of accused No.2. The dispute is thus of civil nature. The suit is over the property. The allegations against accused No.1 is that he has prepared false

documents. There is no allegation that the documents are forged or fabricated. At the most it is a case of taking wrong entry in the revenue record. However, that would not attract offence of forgery or preparation of false document. It also needs to be seen that in-fact, when from the allegations when there are no two wells in land Gat No. 110 and that there is only one well in land Gat No. 110 and if vendor has shown two wells in the said land in that case it can be said that it is accused No.2, who is deceived by the vendor. It will not make the complainant a person who is deceived or cheated. Looking from this angle also continuance of proceeding would be an abuse of process of law.

09. The learned Sessions Judge has discussed that in some revenue entries two wells are shown in land Gat No. 110 and whereas earlier there was only one well shown. However, that itself will not attract offence of cheating and forgery. Admittedly, now the Civil Suit is pending bearing RCS No. 377 of 2013 filed by accused No.2 against the complainant, where it is claimed that there are two well in land Gat No. 110 and accused No.2 is having 1/4th share in each of the wells. Thus, it is clear that dispute is of Civil nature.

10. This Court has also seen the statements recorded by the

police. The statement are of only complainant and his mother. Except that, there are no statements. Only to make out charge under sections 420, 468, 471 and 167 r/w 34 of the Indian Penal Code, said material cannot be said to be sufficient. This Court, this Court accepts contentions of the petitioners.

11. Hence, following order :-

- (i) Both the Criminal Writ Petitions are allowed.
- (ii) The impugned common judgment and order dated 25.08.2022 passed by the learned Sessions Judge, Ahmednagar in Criminal Revision Application Nos. 39 and 46 of 2022, is hereby quashed and set aside.
- (iii) The petitioners in both the petitions stand discharged from RCC No. 106 of 2014 pending before the learned Judicial Magistrate, First Class, Parner.

[KISHORE C. SANT, J.]