



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1631 OF 2025

Durgadas Roopchand Dishware
Age: 51 years, Occu.: Agri,
R/o Near Smarat Hotel, Kannad,
Tq : Kannad, Dist.: Aurangabad

..PETITIONER

VERSUS

1. State of Maharashtra
Through, The Superintendent of Police,
Pune (Rural).

2. Goverdhan S/o Roopchand Dishware
Age: 49 years, Occr-rpation: Service,
R/o. Near Srnarat Flotel, Kannad,
Tq. Kannad, Dist. Aurangabad

..RESPONDENTS

....
Mr. A.S. Shejwal, Advocate for the petitioner
Mr. S.S. Dande, A.G.P for respondent no.1 - State
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CORAM : ABHAY J. MANTRI, J.
DATE : 19th DECEMBER, 2025

ORAL JUDGMENT :

1. Heard. **Rule.** Rule is made returnable forthwith and heard finally by consent of the learned counsel, Mr Shejwal, and learned APP for respondent No.1.

2. By this petition, the petitioner is challenging the order dated 09th September, 2025 passed by the learned Additional Sessions Judge, Aurangabad in Criminal Revision Application No. 215 of 2024, whereby allowed the revision and quashed and set aside the order dated 24th January,

2024 passed by the learned Judicial Magistrate First Class, Kannad (for short, '*the Magistrate*') below Exhibit 1 in R.C.C. No. 262 of 2023.

3. At the outset, it appears that the petitioner has filed the complaint against the Respondent No.2 before the learned Magistrate, contending that the Respondent No.2 has prepared forged and fabricated documents and thereby cheated him. Accordingly, the learned Magistrate passed the order for issuance of process against the Respondent No.2 for the offence punishable under Sections 420, 463, 464, 465, 468, 469, 471, 120(B), 504 and 506 of the Indian Penal Code.

4. Feeling aggrieved by the said order, the Respondent No.2 has filed revision application before the learned Additional Sessions Judge, Aurangabad, who, after considering the facts in the matter, allowed the revision and quashed and set aside the order passed by the learned Magistrate as well as the proceeding initiated against the Respondent No.2, holding that "mere non-compliance of the terms and conditions of deed of partition, the petitioner intend to deceive the complainant and prepared forged documents with intend to pressurise the Respondent No.2 to comply the said terms and conditions of the partition deed. In fact, the nature of the dispute is civil.

5. Perused the grounds for appeal. However, none of the grounds indicate that the passing of the order by the learned Additional Sessions Judge is illegal or perverse. Similarly, learned counsel, Mr Shejwal, failed to

demonstrate that the learned Additional Sessions Judge's order is illegal or perverse. On the contrary, it appears that the order passed by the learned Additional Sessions Judge is just, legal and proper, and therefore, no interference is warranted in it.

6. I have also perused the order passed by the learned Magistrate and gone through the record. It reveals that the order passed by the learned Magistrate is non-speaking order and without recording the reasons he has passed the order of issuance of process, and therefore, the said order is contrary to the law laid down by the Hon'ble Apex Court in case of *Lalankumar Singh and Ors. Vs. State of Maharashtra AIR 2022 SC 5151* and *M/s JM Laboratories and Ors. Vs. State of Andhra Pradesh and Anr. MANU/SC/0124/2025*. In view of the same, it cannot sustain in the eyes of the law, and therefore, the learned Additional Sessions Judge has rightly reversed the same.

7. Apart from that, a bare perusal of the complaint and the verification statement of the complainant, it appears that no ingredients of the sections as mentioned above are attracted. Nowhere has the petitioner stated that the Respondent No. 2 has prepared the forged documents or cheated him. His sole contention was that Respondent No. 2 has not paid his share of the disputed property pursuant to the partition deed; therefore, he has filed this complaint. The averment itself reveals that no case is made out against the Respondent No. 2. In view of the same, the learned Additional Sessions Judge has rightly dismissed the complaint.

8. It further reveals that despite the civil nature of the dispute, the petitioner has filed this complaint and thereby dragged the respondent to the litigation, and thereby abused the process of law, and therefore, the petitioner is liable to pay the costs. Admittedly, there is no averment in the complaint or verification statement about committing the offence by the Respondent No.2. However, only with a view to pressurising the Respondent No.2, the petitioner has filed this complaint and challenged the order before this Court, which itself indicates that the petitioner has misused the process of law.

9. Thus, considering the above discussion, it emerges that the petitioner failed to make out a case to interfere in the impugned order in the writ jurisdiction. *As such, the petition being bereft of merits, stands dismissed with cost of Rs. 5,000/- (Rupees Five Thousand).* The petitioner is directed to deposit the said cost with the Legal Services Authority, Kannad, within a period of eight weeks from today. Inform the order to the learned Courts below accordingly. The Rule is discharged.

(ABHAY J. MANTRI, J.)

SSD