



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

CRIMINAL WRIT PETITION NO. 1726 OF 2025

Mahammad Gous Usman Shiakh,
Age-68 years, Occu- Pensioner,
R/o. Near Golden Bakery,
Vairag Road, Dharashiv,
Dist. Dharashiv

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Public Prosecutor,
Dharashiv, Dist. Dharashiv
2. Khamarunisa W/o. Maqbool Ustad,
Age-54 years, Occu-Household,
R/o. Khirani Mala, Dharashiv,
Dist. Dharashiv
3. Mahammad Jaker Usman Shaikh,
Age-44 years, Occu-Household,
R/o. Khirni Mala, Dharashiv,
Dist. Dharashiv

...RESPONDENTS

Mr. S. B. Choudhari, Advocate for the petitioner
Mr. S. S. Dande, APP for the respondents/State

CORAM : ABHAY J. MANTRI, J.

DATE : 18th DECEMBER, 2025

ORAL JUDGMENT :

1. Heard.
2. Rule. Rule is made returnable forthwith and heard finally
with the consent of the parties.

3. By this petition, the petitioner is challenging the order dated 11-09-2025, passed by the learned Additional Sessions Judge, Osmanabad, in Criminal Revision Application No.51/2019, whereby allowed the revision petition and set aside the order dated 03-08-2019 passed below Exh. 1 in RCC No. 387/2019 by the learned Magistrate for issuance of process.

4. The crux of the argument of the learned Advocate for the petitioner is that the respondents have suppressed the fact from the court and obtained the legal heirship certificate. Therefore, they have committed an offence as alleged in the complaint. However, he failed to point out how the ingredients of the offences under Sections 420, 467, and 468 r/w 34 of the Indian Penal Code (for short, '*IPC*') mentioned in the complaint are attracted. On that ground alone, the petition is liable to be rejected.

5. Perused the impugned order passed by the learned Magistrate. It appears that the learned Magistrate has not passed speaking order nor recorded any reasons for issuance of process and thereby passed the passing of order is contrary to the law laid down by the Hon'ble Apex Court in Lallankumar Singh and others Vs State of Maharashtra 2022 LiveLaw (SC) 833 and M/s JM Laboratories and others Vs State of Andhra Pradesh and another and therefore, said order is not sustainable in the eyes of law.

6. I have also gone through the order passed by the learned Additional Sessions Judge, who in para 11 and 12 has categorically observed that the reasons for the issuance of a legal heirship certificate in favour of respondents no.2 & 3 are of a civil nature. Additionally, a civil suit is pending between the parties; therefore, the matter is of a purely civil nature. Hence, I do not find any illegality or perversity in the impugned judgment and order. As a result, the petition being devoid of merit stands dismissed with costs of Rs. 5,000/-. The rule is discharged.

7. The petitioner is directed to deposit the cost of Rs. 5,000/- with the Legal Services Authority, Dharashiv, within a period of eight weeks from today.

[ABHAY J. MANTRI, J.]

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