



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 562 OF 2025

- 1] Vinod Devidasrao Patil (Tubaji)
Age-65 years, Occupation-Agri.and Advocate,
R/o.Plot No.105, Trimurti Nagar,
Parbhani,Tq.and Dist.Parbhani. **..Petitioner**

VERSUS

- 1] The State of Maharashtra,
Through Police Station,Daithana,
Tq.and Dist.Parbhani.
- 2] Neeta Nandkumar Nayar,
Age : 51 years, Occ.Advocate,
R/o.501,C-3,Punyodaya Park,
Aadharwadi, Jail Road,
Kalyan (West),Dist.Thane.
- 3] Santosh Chaburao Aaglave
Age : 36 years, Occ.Agriculture,
R/o. Rambai Nagar,Parbhani
Tq.and Dist.Parbhani. **...Respondents**

Advocate for Petitioner : Mr. Pravin N.Kalani
APP for Respondent Nos. 1/State: Mrs.Chaitali Choudhari Kutti

CORAM : SHAILESH P. BRAHME, J.

DATE : 28th APRIL 2025

FINAL ORDER :

1. Heard learned counsel Mr.Pravin Kalani for the petitioner and Mrs. Chaitali Choudhari Kutti, APP for Respondent No.1/State.
2. Petitioner is taking an exception to the order rejecting his application Exhibit-112 preferred under Section 310 of Cr.P.C (Section 347 of B.N.S.S) vide order dated 01.01.2025 in Sessions Case No.121 of 2015.
3. Respondent No.2 lodged report on 26.06.2015 for registration of offence under sections 307,341,447,504 and 506 read with section 34 of I.P.C against petitioner and Respondent No.3, who are real brothers. It is alleged that on 25.06.2015, she had been to her agricultural land at village Pokharni,Tq.and Dist.Parbhani. The assailants entered the field and assaulted her by weapon. She was abused and threatened. There was dispute between her and her brothers on account of shares in the ancestral properties.

4. Charge sheet was filed on 31.08.2015. The case was committed to the Sessions Court and registered as Sessions Case No. 121 of 2015.

5. Petitioner submitted application Exhibit-112 soliciting the prayer of spot inspection by the competent revenue authority and measurement of the land. It was opposed by the petitioner. By impugned order, it was rejected.

6. Learned counsel Mr.Kalani appearing for the petitioner submits that his client is the owner of the land Gut nos. 445 and 441 is in his possession. My attention is adverted to spot inspection/ panchnama to make out a point that the incident took place in Gut Nos.445 and 441 which was belonging to the petitioner and in his possession. No offence under sections 447 and 341 can be said to be attracted. It is contended that the spot inspection and it's measurement by the competent authority is needed to bring real facts before the court. It is further vehemently submitted that charge was framed on 29.06.2022 vide Exhibit-85 referring to the field of

the informant but in fact both the lands referred above are belonging to the petitioner.

7. Learned APP supports impugned order. She would submit that this is not a fit case to invoke powers under Section 310 of Cr.P.C.(Section 347 of B.N.S.S)

8. Informant and the accused persons are the siblings. They are disputing over the shares in the ancestral lands. Even civil litigation is pending between them. They have a rival claims for title and possession over the ancestral lands including land in gut Nos. 445, 441 and those referred in the first information report. Plea of the petitioner that he is the owner of land gat no.445 and in possession of it as well as gat no.441 can not be the subject matter of Criminal Court.

9. First information report reveals that informant is claiming her share in the ancestral lands and she is in possession of the land allotted to her. The incident in question took place in the said land. The charge was framed on

29.06.2022 at Exhibit-85 referring to the incident in question which occurred in the field of the Respondent No.2/informant. The spot panchnama refers to land gat nos.445 and 441 where the offence took place. It is upto the prosecution to prove as to exactly where the offence took place. The Respondent Nos.1 and 2 are under obligation to prove the exact location of the spot and overt act beyond reasonable doubt.

10. Petitioner is entitled to take a plea that he is in possession and owner of specific land and no offence can be said to be made out. For his defence, it is not necessary for the trial court to resort to section 310 of Cr.P.C. Unlike the civil proceedings, it is not necessary for the petitioner to prove location and measurement of the disputed site.

11. I have gone through the observations of Learned Judge in paragraph nos. 4 and 5 of the impugned order. I do not find that there is any perversity or illegality. He has arrived at reasonable and just conclusion.

12. Writ petition is dismissed.

[SHAILESH P. BRAHME, J.]

vsj