



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 80 OF 2025

Smt. Pranita Wd/o Rohit Dhakate

-- VERSUS --

State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Rajas P. Durge, Advocate for the Petitioner.

Mr. G.S. Umale, A.P.P. for the Respondent/State.

CORAM : M.M. NERLIKAR, J.

DATE : NOVEMBER 24, 2025.

Heard.

2. The petitioner is the widow of deceased (Rohit Dhakate) who was arrayed as accused No.1. Crime No.76/2013 was registered against accused No.1 for the offences punishable under Sections 420, 409, 201, 465, 467, 468, 471 and 477-A read with Section 34 of the Indian Penal Code, 1860. During investigation, property in question, i.e., immovable property Duplex No.-25 (Type), Modern Society, Bhilgaon Road, Tah. Kamthi, District Nagpur, was seized by the Investigating Officer under Section 102 of the Code of Criminal Procedure, 1973. The accused No.1 – Rohit Dhakate died on 23/07/2020,

and accordingly, the trial was abated against him on 06/01/2021.

3. It appears from the record that before joining as the Manager of Bank of Maharashtra, Branch Ghot, the said property was purchased by the accused No.1 and the entire payment was made before entering into the service as Branch Manager. The property was purchased by the deceased-Rohit (accused No.1) vide sale deed dated 20/05/2009, however, he started working as Branch Manager from September, 2009 and he was working till 26/05/2012. It is alleged that during this period, there was misappropriation of Rs.63,93,621/-, and therefore, pursuant to the alleged offence, the said property was seized by the Investigating Officer under Section 102 of Cr.P.C.

4. The learned counsel appearing for the petitioner submits that immovable property cannot be attached or seized under Section 102 Cr.P.C. and the Investigating Officer cannot exercise power under Section 102 for the same reason. He has invited my attention to the judgment of the Supreme Court in the case of *Nevada Properties Private Limited VS State of Maharashtra & Anr.*, (2019) 20 SCC 119, wherein the Supreme Court has held that under Section 102, the Investigating Officer does not have

the power to attach, seize and seal immovable property, while interpreting “any property” appearing in Section 102 the same does not include immovable property, and therefore, Section 102 does not empower a police officer to seize immovable property like lands, plots, residential houses, streets or similar properties. He further submits that the present petitioner is the widow of Rohit (deceased), filed an application under Section 102 Cr.P.C. for removing impediment of the seizure levied over the immovable property for Duplex No.-25 (Type), Modern Society, Bhilgaon Road, Tah. Kamthi, District Nagpur. The said application was allowed below Exh.165 by the Judicial Magistrate First Class, Chamorshi, on 14/03/2022 by passing the following order :-

“ *ORDER*

- 1) *Application is allowed.*
- 2) *The impediment levied by seizure under section 102 of the Code of Criminal Procedure by Police Station, Chamorshi on Duplex No.25 (Type), Modern Society, Bhilgaon, Tah. Kampthi, Distt. Nagpur is vacated and removed forthwith.*
- 3) *The copy of said order be sent to police station, Chamorshi as well as Sub- Yegistrar, Kampthi, Tah. Kampthi, Distt. Nagpur for necessary information and further compliance.*
- 4) *It is hereby directed to applicant not to dispose of Duplex No.25 (Type), Modern*

Society, Bhilgaon, Tah, Kamphthi, Distt. Nagpur by any means without prior permission of this Court. Similarly, applicant should not make any attempt to dispose of aforesaid property at any means without prior permission of this Court.

5) The applicant is directed to furnish undertaking in regards to clause No.4.”

Accordingly, as per clause No.4, the petitioner moved an application for permission to dispose of the immovable property bearing Duplex No.-25 (Type), Modern Society, Bhilgaon Road, Tah. Kamthi, District Nagpur. The said application was rejected by the Judicial Magistrate First Class, Chamorshi, by passing the order below Exh.175 on the ground that *“The trial is still pending and at this stage it cannot be concluded that the alleged duplex was or was not purchased from misappropriated money by deceased accused no.1.”*

5. Apparently, so far as the facts are concerned those are not disputed. It is crystal clear that the petitioner joined the Ghot Branch of the Bank of Maharashtra as Branch Manager and worked from September, 2009 to 26/05/2012. It is also an admitted position that the registered agreement to sale was executed in the year 2007 and amount was paid from time to time and thereafter sale deed was

executed on 20/05/2009, and the entire amount of sale deed was paid before September, 2009. Therefore, there is no question of purchasing the said property from the proceeds of crime. Even in the impugned order dated 22/11/2023, in paragraph No.12 the Magistrate has also observed that *“the duplex in question was purchased by accused No.1 (Rohit) on 20/05/2009 because the sale deed was executed and registered on 20/05/2009. Thus, it is prima facie seen that the alleged duplex was purchased by accused No.1 before joining service at Bank of Maharashtra Ghot.”* If this is the admitted position, then the Court ought not to have said the further part that *“It cannot be concluded that the alleged duplex was or was not purchased from misappropriated money by deceased accused no.1.”* Therefore, the findings of the Trial Court are perverse insofar as the purchase of the property in question is concerned.

6. As could be gathered from the above facts and circumstances, the property in question is purchased before joining the service at Bank of Maharashtra as Branch Manager at Branch Ghot. Therefore, the said property cannot be treated as proceeds of crime. Further, in view of the subsequent development that husband of petitioner (accused No.1) has died, it is not proper to continue with the

condition No.(4). Therefore, considering the above facts and circumstances, the impugned order dated 22/11/2023 rejecting the application seeking permission to dispose of immovable property bearing Duplex No.-25 (Type), Modern Society, Bhilgaon Road, Tah. Kamthi, District Nagpur, does not sustain in law.

7. So far as the findings of the Revisional Court is concerned, the Court appears to be much impressed on the fact that the property should not be disposed of, as the amount misappropriated belonged to public being public amount, hence, the Trial Court also imposed condition No.4 while deciding the application at Exh.165. It was further observed by the Revisional Court that only because the applicant has no independent income and she is having one son and daughter is not the reason to consider the said application.

8. Admittedly, the observations are erroneous for the reason that the Revisional Court ought to have taken into consideration the date of transaction in respect of property bearing Duplex No.-25 (Type), Modern Society, Bhilgaon Road, Tah. Kamthi, District Nagpur. As was observed earlier, that the agreement to sale was effected in the year 2007 and, thereafter, the amount was paid from time to

time, and eventually, the sale deed was executed on 20/05/2009, i.e., much prior to the alleged misappropriation. However, the Revisional Court has failed to take into consideration the above aspect and proceeded on the premise that the said property was purchased from the crime proceeds. Therefore, the findings do not sustain as those are contradictory to the facts of the case and requires interference of this Court.

9. In this view of the matter, the petition is **allowed** in terms of prayer clause Nos.(i) and (ii) which reads thus:-

“1. Quash and set aside the order passed by Learned Additional Sessions Judge Gadchiroli in Criminal Revision application no. 9/2024 dated 27/12/2024 (Annexure no. VIII) so also order passed by Judicial Magistrate first Class Chamorshi dated 22/11/2023, in regular criminal case 81-2017, is annexed herewith as (Annexure No. VI)

2. Allow the petitioner to dispose of the property bearing Duplex no.25(Type), Modern Society, Bhilgaon, Tah. Kamthi Dist. Nagpur, on such terms and conditions, in the interest of justice.”

[M.M. NERLIKAR, J]