



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

CRIMINAL WRIT PETITION NO. 486/2025

1. Vidyasagar s/o Kisansa Paralkar,
Aged about 88 years, Occ: Retired
R/o: Plot No. 6, 'B' Wing, Bhupali Park,
Bankar Chauk, Kathegalli, Dwarka, Nashik.
Tah. & Dist. Nashik.

...PETITIONERS
(Ori.Non-applicant.)

VERSUS

1. Pada Pira Yele (dead)
Aged about - years, Occ : -
Earlier residing at Isalwadi, Tah: Motala,
Dist.Buldhana.
2. Chaitram Pada Yele,
aged about 81 yrs., Occ. Agriculturist,
R/o. Isalwadi, Tah. Motala, Dist. Buldhana.
3. Nana Pada Yele,
aged about 61 yrs., Occ. Agriculturist,
R/o. Isalwadi, Tah. Motal, Dist. Buldhana.
4. Namdev Pada Yele,
Aged about 56 yrs., Occ. Agriculturist,
R/o. Isalwadi, Tah. Motala, Dist. Buldhana.
5. Uma Pada Yele,
aged about 51 yrs., Occ. Agriculturist,
R/o. Isalwadi, Tah. Motala, Dist. Buldhana.

6. Parbat Chindha Karangule,
Aged about 46 yrs., Occ. Agriculturist,
R/o. Isalwadi, Tah. Motal, Dist. Buldhana.
7. Pavsa Chindha Karangule,
Aged about 56 yrs., Occ. Agriculturist,
R/o. Isalwadi, Tah. Motala, Dist. Buldhana.

...RESPONDENT
(Ori.Applicants)

Mr. S. S. Sammer, Advocate for petitioner,
Mr. D. I. Jain, Advocate for respondent Nos. 2 to 7.

CORAM : **M. M. NERLIKAR, J.**
DATE : **14.10.2025**

ORAL JUDGMENT :

Heard.

2. By way of this petition filed under Articles 226 and 227 of the Constitution of India, the petitioner is seeking quashment of order dated 18.12.2024 as well as order dated 24.01.2019 passed by the learned Additional Sessions Judge, Malkapur, Dist. Buldhana in Criminal Revision No.4/2019 and learned Judicial Magistrate First Class, Motala, Dist. Buldhana in Regular Criminal Case No. 48/2013 respectively, wherein the

learned Judicial Magistrate First Class, Motala discharged the accused persons.

3. Brief facts appears to be that:

The petitioner filed a private complaint alleging the the offence punishable under Sections 420, 465, 467 read with Section 34 of the Indian Penal Code (“IPC”). It is the case of the petitioner that the land bearing Survey No.1 situated at Isalwadi is his ancestral property and after the death of his father, the property was inherited by him, Prakash and Subhash his brothers and his mother Lilabai. The respondent No.1 herein (dead) instituted a civil suit bearing No.133/1980 for specific performance of contract against the petitioner, his brothers and mother. The petitioner as well as his brothers and mother Lilabai also filed a Civil Suit bearing RCS No. 202/1980 against the present respondent No.1. Both the suits were decided on 17.03.1983 wherein R.C.S. No. 133/1980 filed by the respondent No.1 was decreed and R.C.S. No. 202/1980 came to be dismissed. The appeal was filed against judgment and order passed in RCS No.133/1980. The appeal was

allowed by the District Court, Khamgaon on 29.03.2005 and accordingly, the decree passed in favour of respondent No.1 herein was set aside. Against the same, second appeal was preferred by the respondent No.1 along with an application for condonation of delay before this Court. The application for condonation of delay was rejected and accordingly the decree passed by the Appellate Court in Regular Civil Appeal No.26/1992 came to be confirmed.

4. However, in the interregnum, mutation entry No.23 came to be recorded in respect of Survey No. 1 in favour of the respondent No.1. After recording of the mutation entry, the disputed land was partitioned amongst the legal heirs of the respondent No.1 and thereafter, legal heirs of respondent No.1 sold the disputed land to respondent Nos. 6 and 7.

5. Therefore, the petitioner filed a private complaint against all the respondents alleging cheating and forgery. It is alleged that with the help of Talathi and Revenue Authorities, mutation entry No.23 came to be recorded in respect of Survey

No.1 and the base for said entry was RCS No.87/1983 which was decreed. It is alleged that the brother of the petitioner Prakash filed suit in the year 1983 i.e. RCS No.87/1983 for malicious prosecution which came to be dismissed on 30.07.1984 and accordingly on the wrong judgment and decree, the mutation entry was recorded in the name of respondent No.1. Thereafter, process was issued against the respondents, accused appeared, complainant led his evidence under Section 242 of the Code of Criminal Procedure and accordingly, the evidence was closed before framing of the charge.

6. After going through the entire record, the Magistrate found that the evidence is not sufficient to frame the charge and accordingly under Section 245 of the Code by a reasoned order, discharged the respondents herein. A revision was preferred by the petitioner against the aforesaid order which came to be rejected by an order dated 18.12.2024. Against both these orders, the petitioner preferred the present writ petition.

7. I have heard learned counsel for petitioner as well as learned counsel for respondents. I have also gone through the impugned orders and the material placed before this Court.

8. The moot point is the mutation entry No.23 which was recorded in the name of respondent No.1. It appears from the record that there are civil litigations going on since 1980. The civil suits are filed by parties against each other for various reliefs and those proceedings are still pending before various Courts. Therefore, without going into detail of the these civil litigations, the present writ petition can be decided. As per the allegation of the petitioner, he is the owner of the disputed land and it was inherited from his ancestors and the mutation entry recorded in the name of respondent No.1 is on the basis of forged documents. It appears from the record that the mutation entry was recorded on 20.08.1984 on the basis of the order passed in R.C.S. No.87/1983 dated 30.07.1984. It further appears that R.C.S. No. 133/1980 filed by the respondent No.1 was decreed on 17.03.1983. However, that decree was set aside in R.C.A. No.26/1992 in the year 2005. Meaning thereby,

since 1983 to 2005, the decree passed in R.C.S. No.133/1980 was intact in favour of respondent No.1. It appears that on wrong proceedings the mutation entry was taken. That by itself will not amount to committing offence when the decree passed in RCC No.133/1980 was intact till 2005. Between the intervening period, it further appears that the said property was partitioned and thereafter sold to respondent Nos. 6 and 7. Though the proceedings against the mutation entry No.23 are still going on and others civil litigations are also pending between the parties, under such circumstances, it cannot be said that the respondents have committed offence under Sections 420, 465, 467 read with Section 34 of the IPC. The dispute appears to be civil in nature and cannot be given colour of criminal case and therefore, the learned Judicial Magistrate First Class has rightly discharged the accused under Section 245 of the Code by giving cogent reasons. Further, the Revisional Court has also rejected the application of the petitioner by giving detailed reasons and therefore, it can be said that there are concurrent findings of facts. Even otherwise in view of the

above discussion, there is no merit in the present petition and hence the following order:-

- I. Criminal Writ Petition is dismissed accordingly.

(M. M. NERLIKAR , J.)

Gohane