



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPP) NO.1529 OF 2025
IN
CRIMINAL APPLICATION (ABA) NO.252 OF 2025

Deepak s/o Vitthalprasad Dubey and another
Vs.
State of Maharashtra, Through Police Station Officer, Mankapur Police
Station

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

Court's or Judge's orders

Mr. Akshay A. Naik, Senior Counsel a/b Mr. Anand Shinde and Mr. Sameer
Shaikh, Counsel for the applicants.
Mr. N. B. Jawade, APP for the non-applicant /State.
Mr. Ghanshyam Dani, Counsel for assist to the prosecution.

CORAM : URMILA JOSHI-PHALKE, J.
RESERVED ON : 30.07.2025
PRONOUNCED ON : 06.08.2025

1. By this application, the victims are seeking intervention and permission to engage Counsel to participate in the proceedings.

2. As per the contention of the victims that they are aggrieved by the illegal acts of the applicants, as the applicant No.1 had by fraudulently induced them, sold them properties at Khasra No.9/2, 9/3, 9/4 of Mouza Gorewada, which is not owned by the applicants. The applicant No.1 has further sold out some of the said properties to the applicant No.2, despite both the applicants being aware of already existing rights of the victims in the

said properties. The offence is registered against the present applicants on the basis of a report lodged by Vijay Jagatdhari Singh Thakur on an allegation that he had entered into an agreement with one Kiran Raghatate in respect of the purchase of plot No.30 out of Mouza Gorewada. The said Kiran purchased the said plot from one Netaji Co-operative Housing Society on 10.08.1993 and the present applicant No.1 was acting as President of the said Society. During the inquiry by the informant, it reveals that the present applicant No.1 entered into the sale deed with present applicant No.2 regarding the plots sold by him to Kiran Raghatate as well as to other persons. On the basis of the said report, police have registered the crime against the present applicants vide Crime No.122/2025 registered with Police Station Mankapur, Nagpur, District Nagpur for the offence punishable under Sections 61(2), 62, 319(2), 318(4), 335, 336(2), 336(3), 338, 340(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023.

3. As the applicants approached to this Court for grant of anticipatory bail, the present application is filed for intervention on the ground that they are affected by the acts committed by the present applicants and they have right to participate in the proceedings and no prejudice will be caused to the present applicants by their participation.

4. The said application is strongly opposed by the applicants on the grounds that as far as the rights of the present applicants are concerned, they can be agitated by them by filing the appropriate proceedings. As far as the present crime is concerned, they have no concern and they are not victims in the definition of victim and therefore, they have no right to intervene in the said application and prays for rejection of the application.

5. Learned Counsel for the victims - intervenor placed reliance on **Jagjeet Singh and others Vs. Ashish Mishra @ Monu and another** reported in **(2022) 9 SCC 321**.

6. On hearing both sides and on perusal of the investigation papers, it reveals that in the year 1992, the applicants entered into an agreement to sell of agriculture land in Mouza Gorewada bearing Survey Nos.9/2, 9/3 and 9/4 from Natthu Hiranman Raut and sold it to the people by converting in lay-out of 81 plots in the name of Netaji Co-operative Housing Society. The applicant No.1 has also purchased agriculture land in survey No.9/4 from the Natthu Hiranman Raut and sold the plot to the people. As per the allegations, the applicants by sharing a common intention with other accused, prepared a false affidavit dated 12.02.2024 and submitted it to the Talathi office for entering the name of the aforesaid Society. The applicants being a purchaser

of some of the plots and being affected by the act of the present applicants approached to this Court for seeking permission to intervene in this application.

7. The issue involved in the present application is whether the application of the intervenor can be entertained when they are subsequent purchaser as per the sale deeds.

8. Admittedly, Public Prosecutor occupies position to deal with application for grant of bail in our criminal justice system. The crimes are treated as wrong against society as a whole and his role in administration of justice is special as he is not just representative of aggrieved person but he is representative of the State at large. Though he is appointed by the Government, he is not a servant of the Government or investigating agency. He is an officer of the Court and his primary duty is to assist the Court in arriving at the truth by putting-forth all relevant material on behalf of the prosecution.

9. The use of term "assist" in proviso to Section 24(8) is crucial and implies that the victim's counsel is only intended to have a secondary role to assist the Public Prosecutor. This is supported by the fact in view of Section 301 of the Code of Criminal Procedure. Thus, in view of Section 301(2) of the Code, the private person if instructs a pleader to prosecute any person, he can assist the prosecutor

by engaging a counsel, of course, with the permission of the Court. Thus, scope of Section 301(2) of the Code is specified by Sub-Section (2) of the said Section. Of course, it is at the discretion of the Court whether the said person is to be allowed or not to allow. Admittedly, the definition of a private person is not defined anywhere in the Act and, therefore, locus of the person requires to be seen.

10. "Locus Standi" signifies a right of appearance in a Court of justice or right to be heard or place of standing. Such a Locus Standi confers on a person only if he has an interest in the matter. The Victim/Private person in that sense does have an interest in the matter since it is he/she are the ultimate sufferer of such crime. However, under Section 301(2) of the Code, the legislature has consciously regulated it in the manner that the pleader so instructed by a private person, shall act in any such case under the directions of the Public Prosecutor only and not as an absolute legal right of independent appearance before the Court. The aforesaid provision is therefore, in a clear distinction from the specific provision under Section 372 of the Code conferring upon the victim a distinct legal right to prefer an appeal which was not earlier available to him/her. The conscious distinction made by the legislature in the wording of the two provisions is apparent and with a definite legislative intent and purpose.

11. In the case of **J.K. International vs. State (Govt. of NCT of Delhi) and others**, reported in **(2001) 3 SCC 462**, the matter related to the petition for quashing filed by the accused before the High Court where the prayer for impleadment as a party was declined. The Hon'ble Apex Court held that under the scheme envisaged in the Code of Criminal Procedure, a person who is aggrieved by the offence committed is not altogether wiped out from the scenario of the trial merely because the investigation was taken over by the police and the charge-sheet was laid by them. Considering this provision of Section 301(2) of the Code, it was held that even in the Sessions Court where public prosecutor is only authority empowered to conduct the prosecution, as per Section 225 of the Cr.P.C., a private person who is aggrieved by the offence involved in the case is not altogether debarred from participating in the trial.

The Honourable Apex Court further held that under Section 301(2) of the Code under Chapter-XXIV "General Provision to inquiry and trial" a limited role is permitted to be played by a private person if he is aggrieved and his presence is not wiped out from the proceeding in the criminal trial merely because the case was chargesheeted by the Police.

12. As per the Law Lexicon, 'Locus Standi' signifies a right of appearance in a Court of justice or

right to be heard or place of standing. Such a locus standi confers on a person only if he has an interest in the matter. The victim/private person in that sense does have an interest in the matter, since he/she are the ultimate sufferer of such crime.

13. In the light of the above observation by the Hon'ble Apex Court and in the light of the legal provision in the present application. Admittedly, the present intervenors Nos.6 to 9 i.e. Sarita w/o Ravikant Ragahtate, Ashwini w/o Laxmikant Raghatate, Roshan s/o Suryakant Raghatate and Kiran w/o Umakant Raghatate are the purchasers and direct sufferers due to the action or inaction on the part of the applicants who are accused of the crime. Being a intervenor, they have *locus standi*, which is apparent from the application and the investigation papers and therefore, the application for intervention deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

1. The application for intervention is allowed.
2. The victims - intervenors are permitted to intervene in the application.

(URMILA JOSHI-PHALKE, J.)