



Judgment

9-Cr.WP-679-2025

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

CRIMINAL WRIT PETITION NO. 679 OF 2025

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Rohini wd/o Punit Grover,
Aged about 51 years, Occu.: Household,
R/o C/o Satyarth Grover, 701,
Sukh-Shanti Apartment, Sector 55-56,
Metro Station, Gurgaon, Haryana-122 011.

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PETITIONER

- - V E R S U S - -

- 1] The State of Maharashtra,
Through Police Station Officer,
Police Station Gittikhadan, Nagpur,
Tahsil and District Nagpur.

- 2] Shri Santosh s/o Baburao Gaikwad,
Aged about 47 years, Occu.: Service,
R/o Plot No.21, RBI Colony, Katol Road,
Nagpur, Tahsil and District Nagpur.

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RESPONDENTS

Mr. P.S. Sadavarte, Advocate for the Petitioner.

Mr. G.S. Umale, Advocate for Respondent No.1/State.

Mr. S.B. Mohta, Advocate h/f. Mr. A.K.M. Daud, Advocate for
Respondent No.2.

CORAM : M.M. NERLIKAR, J.

DATE : DECEMBER 22, 2025.

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard finally
with the consent of learned counsel for the parties.

2. The application at Exh.-07 was filed by the present petitioner, who is the co-owner of the disputed plot No.21, admeasuring 2400 sq. ft. in Reserve Bank of India Workers Co-operative Housing Society, situated at Khasra No. 58/1, Mouza Borgaon, CTS No. 534, 164/64, Friends Colony, Katol Road Nagpur, seeking further investigation under Section 173(8) of the Cr.P.C., thereby directing police officer to record statement

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of the victim as per Section 161 of the Cr.P.C. and to examine her as witness under Section 311 read with Section 319 of the Cr.P.C. which was partly allowed by Judicial Magistrate First Class, Court No.10, Nagpur on 02/04/2025. The present petition is preferred against the aforesaid order as the prayer to direct the disputed document to a handwriting expert was not considered.

3. The learned counsel appearing for the petitioner submits that the petitioner and her husband are co-owners of the disputed plot. The respondent No.2 was a tenant on the said plot who has allegedly prepared a forged agreement to sale dated 28/06/2016. The present petitioner and her husband, namely, Punit Grover, are shown as signatories to the forged agreement and their signatures were forged on the said agreement. The respondent herein had filed a suit for specific performance of contract. Initially the petitioner in the aforesaid suit for specific performance of contract had filed an application

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at Exh.-141 before the 14th Joint Civil Judge, Senior Division, Nagpur, for referring the disputed document, namely, the agreement to sale dated 28/06/2016 (Exh.-72), to a handwriting expert. The said application was allowed, and the disputed document was directed to be sent to the State examiner of document by order dated 26/08/2024. However, the said order was challenged by the present respondent in Writ Petition No.5904/2024, and this Court, by order dated 27/01/2025, quashed and set aside the said order dated 26/08/2024 below Exh.-141 and allowed the writ petition.

4. He further submits that before the writ petition was allowed by this Court, the petitioner had filed an application for issuance of directions for further investigation under Section 173(8) of Cr.P.C., with a further prayer to record the statement of petitioner under Section 161 of the Cr.P.C. and to examine her as a witness under Section 311 of the Cr.P.C. vide Exh.-7 in Regular Criminal Case No.4094/2017 which is instituted by the

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present petitioner. The said application was partly allowed by the Judicial Magistrate First Class, Court No.10, Nagpur, and it was directed to record the statement of petitioner under Section 161 of Cr.P.C. and it was also directed to forward the same statement to the Court. It was further observed that the said statement would form part of the charge-sheet, and accordingly, the application was partly allowed.

5. The learned counsel appearing for the petitioner submits that the trial Court failed to take into consideration the scope of Section 173(8) of the Cr.P.C. He submits that the Court ought to have forwarded the disputed document to the handwriting expert and ought to have called the report in order to decide the real controversy. The order passed by this Court in Writ Petition No.5904/2024 would not come in way, as the proceedings are of different nature. The order dated 27/01/2025 passed by this Court was in Civil Proceedings, however, so far as the present proceedings are concerned, those

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are in the nature of criminal proceedings. He further submits that the criminal proceedings are required to be decided on the basis of independent material which was collected during the course of investigation. The scope of Section 311 is to bring out the truth, and therefore, it is the duty of the Court to determine the truth and to render a just decision, and for that purpose he has relied on the Judgment of this Court in the case of *Kirti Ambani VS Union of India, reported in 2015 ALL MR (CRI) 232*.

6. Per contra, the learned counsel appearing for the respondent submits that once this Court has quashed and set aside the order passed by the trial Court in civil proceedings, the same issue cannot be reopened even in criminal proceedings. This Court has already quashed and set aside the order of the Civil Court, wherein direction was issued to send the disputed document to a handwriting expert. He further submits that being aggrieved by the impugned order dated

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02/04/2025 which is partly allowed by directing the Police Officer to record the statement of the victim which would be read as part of the charge-sheet, the respondent has challenged the same in revision proceedings. Therefore, it is not open for the petitioner to seek a direction for referring the disputed document to a handwriting expert.

7. Upon hearing the respective parties, it appears that the dispute is in respect of forgery of the alleged agreement to sale dated 28/06/2016. It further appears that the respondent has filed civil proceedings for specific performance before the Civil Court. Initially, by order dated 26/08/2024, the Civil Court directed that the disputed document, namely, agreement to sale, be referred to a handwriting expert. However, the said order was quashed by this Court in Writ Petition No.5904/2024. The present petitioner filed Regular Criminal Case No.4094/2017 and during the pendency of Writ Petition No.5904/2024, the petitioner approached trial Court by filing

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an application dated 31/01/2024 vide Exh.-7 praying for further investigation under Section 173(8) of Cr.P.C. She also prayed for recording her statement under Section 161 of Cr.P.C. and examining her as a witness under Section 311 of Cr.P.C. The said application was partly allowed by the Judicial Magistrate First Class, Court No.10, Nagpur, however, the prayer for referring the disputed document to a handwriting expert appears to be not considered by the Judicial Magistrate.

8. It appears that the disputed document was referred by the Joint Civil Judge Senior Division to a handwriting expert by order dated 26/08/2024 below Exh.-141, however, as the said order was quashed by this Court in Writ Petition No.5904/2024, therefore, the petitioner would not be entitled to pray again for the same relief in Criminal proceedings, for the reason that the findings of the Civil Court can be binding on the criminal Court, as it involves the same dispute, however, not vice-versa. Once the prayer for referring the disputed

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document to a handwriting expert was rejected by this Court, under such circumstances, the petitioner cannot make the same prayer again before the criminal Court. Under such circumstances, the prayer in the present petition referring the disputed document to the handwriting expert would be against the principle of Judicial propriety, though the said order was passed in the civil Jurisdiction. Therefore, the submission made by the learned counsel for the petitioner that in order to determine the truth and to render a just decision, it is necessary to consider the prayer of the petitioner at this stage, in my opinion, cannot be accepted in the peculiar facts and circumstances of the case.

9. In this view of the matter, the judgment on which the petitioner has placed reliance in the case of *Kirti Ambani (supra)* will not be helpful as the facts and circumstances in the present case are different. In this view of the matter, the petition deserves to be dismissed and is accordingly **dismissed**.

Rule stands discharged.

[**M. M. NERLIKAR, J**]