IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1297 OF 2023

Shrikant s/o Eknath Madne and others
VERSUS
The State of Maharashtra and another

Mr. A. B. Kale, Advocate for applicants
Mr. V. D. Sapkal, Senior Counsel a/w Mr. Y. A. Jadhav i/b V. G. Kodale, Advocate for respondent No. 2
Mr. S. B. Narwade, APP for respondent-State

CORAM : R. M. JOSHI, J.
DATE : 03rd NOVEMBER, 2026

PER COURT :-

1. Applicants seek quashment of First Information Report bearing No. 546 of 2022 registered with MIDC Police Station, Dist. Latur for the offences punishable under Sections 465, 466, 468, 471 read with Section 34 of the Indian Penal Code and charge sheet filed pursuant to the conduct of investigation and consequential order of cognizance passed by the trial Court.

2. The case of the prosecution is that the Informant is the lawful owner in possession of agricultural land admeasuring 36.42 Ares out of Gut No. 39 situated at village Baswantpur, District Latur, having purchased the same from its original owner by virtue of a registered sale deed dated 20.05.2010, pursuant to which revenue records and mutation entry No. 660 were duly effected in their favor. It is alleged that the

accused persons, having full knowledge of the true ownership standing, hatched a criminal conspiracy in connivance with unknown employees of the Setu Suvidha Kendra and brought into existence a fabricated and forged 7/12 extract dated 01.12.2011. By utilizing this bogus document, the accused fraudulently inflated their land holding to 25 Ares and correspondingly diminished the Informant's legitimate holding down to 26 Ares. The accused persons actively used this fabricated 7/12 extract as genuine by placing it on record along with a false affidavit in Writ Petition No. 7648 of 2019 before this Court, thereby inducing the court to pass orders directing a revenue inquiry. Upon discovery of the fraud through subsequent administrative inquiries conducted by the Circle Officer and Tahsildar which confirmed that the disputed 7/12 extract did not tally with official revenue registers the Informant approached the police authorities and subsequently invoked the jurisdiction of this Court. Following judicial observations regarding the deployment of fabricated court records, the criminal machinery was set into motion seeking thorough investigation for offences punishable under Sections 465, 466, 468, and 471 read with Section 34 of the IPC.

3. Learned counsel for applicants submits that owing to the dispute between the parties in respect of the property, informant has given colour of criminality to a dispute which is completely civil in nature. It is his submission that even if it is accepted for the sake of argument

that the claim made by the applicants in respect of the property in question is not correct, yet it would be a matter for decision of the trial court and by no stretch of imagination it can be converted into a criminal offence. According to him, the First Information Report came to be lodged in order to pressurize the applicants not to contest the civil proceedings in respect of the subject property. He drew attention of the court to the First Information Report, wherein according to him, the only allegation is that applicants have used 7/12 extract issued by SETU in respect of property in question and preferred writ petition before this Court bearing number 7648 of 2019 and the High Court is misrepresented. Similarly, it is alleged that in collusion with the employees of the Revenue Department, the revenue record was fabricated. He drew attention of the court to the charge sheet and evidence collected during the course of investigation, which according to him, does not indicate any evidence to show that the applicants independently or in collusion with the employees of the Revenue Department have created or fabricated any document, much less any revenue record. According to him, admittedly, the 7/12 extract was issued by SETU i.e., the recognized portal of the Government of Maharashtra, and for the purpose of issuance of any document thereon, applicants cannot be held responsible. By placing reliance on the judgment of ***State of Haryana vs. Bhajanlal*** AIR 1992 SC 604 , he

seeks quashment of the proceedings.

4. Learned senior counsel appearing on behalf of the informant opposed the said contention by referring to the statements made in the First Information Report, which, according to him, indicate that applicants, in spite of the knowledge of the fact that the property in question was sold to the informant much prior to the filing of writ petition, made a false claim on the basis of the document which is, on the face of it, depicts incorrect facts. He drew attention of the Court to the pleadings in the plaint in RCS No. 448 of 2017 in paragraph No. 9, and contending that it was within the knowledge of the applicants that there was a sale of property in question in the year 2010, and as such the claim made by the applicants before this court, so also before Revenue Authority, indicate their involvement in the crime. According to him, thus, the intention of the applicants can be gathered from the said act of taking advantage of the fabricated document. In so far as this document being fabricated or manipulated one, he referred to the report of the concerned Tahsildar indicating that the document varies from the record of the Revenue Department. It is his submission that even the High Court in Writ Petition No. 4042 of 2021 has permitted the applicants to adopt appropriate remedy as provided by law, and hence, there is no case made out by the applicants for quashment of the proceedings.

5. Learned APP opposed the application by contending that the evidence collected during the course of investigation is sufficient to show *prima facie* involvement of the applicants in the crime, and it would be a matter of evidence to be led before the trial court to ascertain its correctness or otherwise. It is his submission that there is evidence including the opinion/report of the Tahsildar indicating that the document in question does not match with the revenue record, and as such there is *prima facie* evidence showing offence being made out against the applicants.

6. There cannot be any dispute made with regard to the proposition of law that in case the evidence collected during the course of the investigation and averment in the First Information Report demonstrate the commission of crime, powers under Section 482 of the Code of Criminal Procedure (for short "Cr.P.C."), which are expected to be exercised sparingly, cannot be used. However, if the entire material on record is accepted as it is, and still if no offence is made out, then it becomes incumbent on the part of the Court to curb abuse of process of law. Keeping in mind this well-settled principle that deciding the proceedings under Section 482 of Cr.P.C. for quashment, the material placed on record is appreciated.

7. Perusal of the First Information Report indicates that the

informant has given details with regard to the sale deed executed in respect of the property in question. He claims that on the basis of bogus 7/12 extract Writ Petition No. 7648 of 2019, came to be filed by the applicants and false affidavit was filed before the said court. It is claimed that by misleading the Court, an order was obtained. There is an allegation that the present applicants in the year 2011, in collusion with the employees of the Tahsil Office, obtained 7/12 extract indicating the property which was sold earlier to be in the name of the applicants. Since the complaint made by the applicants was not entertained by the police. Proceedings was filed invoking provisions of Section 156(3) of Cr.P.C., which resulted into direction to the concerned Police Station to register report. During the course of investigation, police recorded statement of relevant witnesses, so also documentary evidence came to be collected.

8. Perusal of the evidence collected during the course of investigation confirms the fact that 7/12 extract, which is relied upon by the applicants for filing writ petition before this court, was issued by SETU. During the course of hearing, this Court has made specific query to learned APP in order to show as to whether present applicants are the one who have created or fabricated the said document. The said creation/fabrication could be ascertained provided there is evidence to indicate that the 7/12 extract was not issued from SETU. Learned APP, on

instructions from the investigating officer, makes categorical statement that there is evidence on record to show that the certificate was issued by SETU. Further he was unable to point out any other evidence to indicate that the applicants, in collusion with the employees of the Tahsil Office, fabricated the said record. Thus, there is no evidence in order to show that the applicants forged any document or abetted or assisted co-accused in doing so.

9. Learned senior counsel appearing on behalf of the informant sought to argue that there was knowledge of the applicants with regard to the previous transaction of sale of the said property in the year 2010, as reflected in the pleadings of the plaint, it should be assumed that the document in question, which is contrary to the record of the Revenue Department, amounts to an offence. It needs to be clarified that unlike in the civil proceedings, the material on record/evidence is required to be considered on preponderance of probabilities. Here, in this case, strict proof is required for making out case against accused.

10. It would be relevant to take note of the pleadings in paragraph No. 9 of R.C.S No. 448 of 2017 which reads as under :-

> *9. That, the land Gat No. 39 Shankar Madne was owner and after his death Shankar's legal heirs has not brought on record. But in the year 2010 Ramkishan Madne has made an application to Talathi in the name of Arjun Madne and intentionally brought legal heirs on record only for this above mentioned land and not for*

all the property, i.e., all the ancestral property. The defendant No. 1, 2, 4, 5 and 6 have executed sale deed in favor of defendant No. 7 in respect of 36-42 R land without the consent of other co-owner. Such transaction is only to grab the property which is illegal one. Defendant no. 4, 5, 6 has taken objection on 05.06.2010.

Perusal of this paragraph indicates that applicants had knowledge with regard to the sale transaction with specific condition that sale has been effected without consent of co-owners. There is no admission on the part of the applicants that there was mutation of revenue record pursuant to the said sale. Only in case there is such admission/averment of the plaintiff with regard to the mutation of revenue record, there requires no assumption. But it can be contended positively on the basis of above averments that with the knowledge of the said revenue record, document indicating otherwise was relied upon by the applicants. In absence of the same, the evidence or even assertions in the First Information Report the same cannot be substituted by the arguments advanced before the Court. This Court, therefore, finds no substance in the contention of the learned counsel for the informant with regard to any case being made out against the applicants with regard to the commission of offences as alleged.

11. Insofar as the other allegation with regard to the misrepresentation before this court in Writ Petition No. 7648 of 2019 and

obtainment of orders by misleading the facts is concerned, admittedly this Court has not initiated any proceedings against applicants in spite of such claim being made by the informant before this Court. Needless to say that Section 195 of Cr.P.C. prohibits cognizance to be taken of any complaint in respect of the offence committed before the public authority except by said authority. Merely because this Court has permitted the applicants to take action as provided in law, it cannot be construed to be a sanction given by this Court for prosecuting the applicants for the alleged misrepresentation of this Court.

12. Perusal of the record supports contention of learned counsel for the applicants that this is a case wherein a civil dispute has been sought to be converted into a criminal offence. Considering the existing dispute between the parties over the property, it seems to be a case of malicious prosecution and false implication. The instant case, therefore, is squarely covered by the judgment in case of ***State of Haryana vs. Bhajanlal (supra)***.

13. In view of above, application stands allowed in terms of Prayer Clause 'C'.

(R. M. JOSHI, J.)

B. S. Joshi