IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1674 OF 2020

1.Ramrao Baliram Kawade
2. Janardhan Baliram Kawade
3. Kalyan Baliram Kawade
4. Gopal Baliram Kawade
5. Rukhminbai Trimbak Mande
6. Sanjubai Sudhakar Gaikwad
7. Zumberbai Achutrao Chavan ...Petitioners

VERSUS

1.State of Maharashtra
2. Subhash Rangnath Kawade ...Respondents

Mr. Ravindra Nirmal, Advocate for Petitioners (Through V.C.)
Mr. A. S. Hazari h/f Mr. A. B. Chalak, Advocate for respondent no. 2
Mr. R. R. Tandale, APP for Respondent- State

CORAM : R.M. JOSHI, J
DATE : OCTOBER 30, 2026

P. C. :

1. By way of this Writ Petition, petitioners seek quashment of the First Information Report bearing Crime No. 139 of 2020 registered with Bardapur Police Station, District Beed for the offences punishable under sections 420, 406, 467, 468, 471, read with 34 of Indian Penal Code along with charge-sheet bearing No. 64 of 2022.

2. According to the prosecution, Rangnath Nagorao Kawade (deceased) was the father of the informant, and Baliram Bapurao Kawade (deceased) was the cousin brother of Rangnath Nagorao Kawade. The

informant's ancestral land is situated at village Ujani, Taluka Ambajogai, originally bearing Survey No. 502 and currently registered as Gut No. 190, admeasuring 1 H 30 R. It is alleged that during the implementation of the consolidation scheme, the name of the informant's father was omitted from being entered in the revenue records of the land. Petitioner Nos. 1 to 7 are the real cousins of the informant. It is alleged that Petitioners acted in criminal conspiracy and with a common intention to misappropriate the ancestral property. On 13.01.2016, Petitioners conspired with a common intention to fraudulently usurp the ancestral land by fabricating a false Relinquishment Deed, while wrongfully using the death certificates of deceased family members to eliminate the rights of other legal heirs. It is alleged that the petitioners procured false witness statements to wrongfully secure Mutation Entry No. 1831 in the revenue records, which was later nullified and declared illegal by the Sub-Divisional Officer, Ambajogai. Therefore, the complainant approached the Bardapur Police Station, whereupon the police authorities advised to seek a judicial remedy before a court. Moreover, the learned Judicial Magistrate, First Class, directed the police authorities to lodge the present FIR pursuant to the order dated 02.11.2020 passed in Criminal M.A. No. 677 of 2020. Upon completion of the investigation, charge-sheet no. 64 of 2022 came to be filed.

3. Learned counsel for the petitioners submitted that the

allegations in the FIR fail to disclose any prima facie case against the petitioners. He contended that the present FIR has been maliciously filed as a counterblast to an earlier FIR lodged by Petitioner No. 1. He further contended that the order dated 02.11.2020 passed by the learned J.M.F.C., Ambajogai, under Section 156(3) of the Code of Criminal Procedure, 1973, shows complete non-application of mind. He contends that a civil dispute is being sought to be converted into criminal proceedings. He drew the attention of the Court to the proceedings pending before the Civil Court bearing R.C.S. No. 92 of 2018. It is his contention that the question as to who is the lawful successor or heir of the deceased owner is a matter to be adjudicated by a competent Civil Court, and therefore, no criminal proceedings ought to be permitted to continue in respect of such a dispute. He drew the attention of the Court to the charge-sheet, indicating that except for one document i.e. the relinquishment deed executed by three accused/petitioners in favour of the rest of the accused persons dated 23.12.2015,no other document was relied upon in order to constitute any offence. The present FIR is filed due to personal vengeance to harass the present petitioners. He places reliance on the following judgment of the Hon'ble Supreme Court ***State of Haryana v.s Bhajan Lal, (1992) SCC (cri) 426*** and ***Gorgie Pentaiah v.s The State of AP(2008) 12 SCC 531.***

4. Learned APP and learned counsel for the informant opposed the

petition contending that the three accused persons wrongly claimed themselves to be heirs of the original owner and relinquished their rights in favour of the rest of the accused person. Attention of the Court is drawn to the statement of Talathi which according to him indicates that the mutation entry No. 1831 was obtained on the basis of a false document.

5. After perusal of the record and submissions of both the sides, a specific query was made to the learned APP and learned counsel for the informant to point out as to which other documents were relied by the Petitioners except for the relinquishment deed executed by the three accused to seek mutation of record. They could not point out any other such document relied upon by the petitioners. Thus there is reason to believe that except the relinquishment deed, which is admittedly, not fabricated document, no other document exist to support case of prosecution.

6. There is no dispute regarding the execution of the relinquishment deed by the three accused persons in favour of the other accused person. By no stretch of imagination can be said deed be termed a fabricated or bogus document. The question rights of the respective parties in the property in question is sub judice before the learned Trial Court and is yet to be adjudicated. Further admittedly, now the mutation entry No. 1831 which said to have been obtained on the basis of relinquishment deed is already set aside.

7. There is no evidence to show any bogus document being created for relied upon by the petitioners while obtaining the said entry. Even if the allegations are taken at their face value, a misappropriated document required to constitute the offence is absent on record. Even otherwise the dispute between the parties regarding who being legal heir of the predecessor in respect of ancestral property is pending before the learned Civil Judge, Junior Division, Ambajogai, District Beed, in R.C.S. No. 92 of 2018. Thus, using the criminal prosecution against the petitioners to resolve a civil property dispute amounts to abuse of process of court. The instant case therefore is duly constituted by principles laid down in the Hon'ble Supreme Court in ***State of Haryana*** (supra).

8. In view of above, Writ Petition stands allowed in terms of prayer clauses 'B' and 'E'.

(R. M. JOSHI, J.)

Malani