
(2016) 03 BOM CK 0161

Bombay High Court (Nagpur Bench)

Case No: Criminal Application (Apl) No. 513 of 2015

Anil Tryambak Kohade

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision: March 7, 2016

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482

Citation: (2016) ALLMRCri 5036 : (2017) 1 MhLJCrI 672

Hon'ble Judges: B.R. Gavai and A.S. Chandurkar, JJ.

Bench: Division Bench

Advocate: Mr. Rajnish Vyas, Advocate, for the Non-Applicant No. 2; Mr. S.D. Deoras, Advocate, for the Applicants; Mr. M.J. Khan, APP, for the Non-Applicant No. 1

Final Decision: Allowed

Judgement

B.R. Gavai, J.(Oral) - Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel appearing for the parties.

2. The present application has been filed praying for quashing and setting aside the first information report No. M-1/2015 lodged with respondent no.1.

3. Heard Mr. S.D. Deoras, learned counsel for the applicants, Mr. M.J. Khan, learned APP for non-applicant no.1 and Mr. Rajnish Vyas, learned counsel for non-applicant no.2.

4. The first information report is lodged on the basis of the directions issued by the learned Magistrate vide order dated 10.03.2015. The order has been passed pursuant to the application filed by the present non-applicant no.2 under Section 156(3) of the Code of Criminal Procedure. It is the contention of non-applicant no.2 who is Member of the Central Excise Employees' Co-operative Housing Society that the applicants have forged a sale deed executed by one Vishramnagar Co-operative Housing Society in favour of Trimbak Kohade, who is the father of applicant Nos. 1, 3

and 4 and husband of applicant no.2.

5. Mr. Vyas, learned counsel for non-applicant no.2 submits that when originally in the sale deed the khasra number was written as 54/2, the mentioning of Kh. No.54/4 in the relinquishment deed dated 21.12.2009 executed in favour of applicant no.1 on one hand and the applicant Nos. 2 to 4 on the other hand creates a serious doubt regarding the conduct of the applicants. It is contended that the same has been done so as to grab the property of the Central Excise Employees Co-operative Housing Society.

6. We find that the contention is de hors substance. The perusal of the application under Section 156 (3) of the Code of Criminal Procedure itself would reveal that it is the contention of non-applicant no.2 that the property owned by the applicants is in Kh. No.54/2 and Kh. No. 54/4 was written in order to grab the property of the Central Excise Employees Co-operative Housing Society.

7. In that view of the matter, we do not find as to how non-applicant no.2 could be said to have any grievance with regard to mention of Kh. No. 54/4 in the relinquishment deed dated 21.12.2009. It appears that the applicants bona fide knowing that the actual khasra number is 54/4, have mentioned the same in the relinquishment deed. It however, appears that after the Nagpur Improvement Trust has brought to the notice of the applicants vide communication dated 25.09.2013 that in the original sale deed executed in favour of Tryambak Kohade by Vishramnagar Cooperative Housing Society, khasra number was erroneously mentioned as 54/2, it was found necessary to get the correction deed executed from the society.

8. In that view of the matter, we do not find that there is any substance in the grievance as raised by non-applicant no.2. We find that the initiation of the criminal proceedings is nothing but an abuse of process of law.

9. In the result, Criminal Application No.513 of 2015 is allowed. The impugned order passed by the learned Magistrate as well as the subsequent registration of the first information report is quashed and set aside. Rule is made absolute in the aforesaid terms.