

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. WRIT PETITION NO. 3743 OF 2012

Mrs. Khairunnisa Yusuf Bhatkar ... Petitioner.

V/s.

Smt. Abidabi Bawasaheb Bhatkar & Ors. ... Respondents.

WITH

CRI. WRIT PETITION NO. 3744 OF 2012

Mrs. Khairunnisa Yusuf Bhatkar ... Petitioner.

V/s.

Mr. Suhas Damodar Sathe & Ors. ... Respondents.

Mr. Nandkumar B. Sawant, Advocate for the Petitioner.

Mr. Amit Date i/by Anil Galgali, Advocate for Respondent Nos.
1 & 2.

Mr. Rajesh More, APP for the State.

CORAM : M.L.TAHALIYANI,J.

DATE : 31st MARCH, 2015

P.C. :

1 Admit. By consent, heard finally at the admission stage.

2 Heard the learned counsel for the petitioner, learned counsel for the respondents and learned APP for the State.

3 The petitioner was the complainant in criminal case no. 35 of 2012 (Misc. Application No. 17 of 2012) pending in the court of Judicial Magistrate, First Class at Chiplun. Respondent No.1-Mrs. Abidabi and Respondent No.2-Noor Mohd. 2 in cri. writ petition no. 3743 of 2012 and Respondent No. 1-Mr. Suhas D. Sathe and Respondent No.2-Mr. Asharaf K. Fakir in criminal writ petition no. 3744 of 2012 were the accused. In the said criminal complaint case, the learned Magistrate after recording statement of the complainant / petitioner on oath, issued process for the offences punishable under sections 406, 420, 418, 421 read with section 34 of the Indian Penal Code against the said respondents. The said respondents-accused were called upon to answer the charges for the offences punishable under the said sections. Said order of the Magistrate was challenged before the Sessions Court. The learned Sessions Judge allowed the revision application and set aside the order passed by the learned Magistrate. The petitioner in these two petitions has therefore challenged the order of the Sessions Court.

4 Before I go to the details of the order passed by the Sessions Court, it is necessary to state in brief as to what led to the filing of the complaint. It is alleged that a sale deed executed by the respondent nos. 1 and 2 in writ petition no. 3743 of 2012 was in respect of the property which was

subject matter of the mutation entry. It is alleged that there was a stay on the mutation entry. It is an admitted position that there was no stay on the conveyance of the property. The allegations made in the complaint do not make out a criminal case of cheating. I do not get anything in the complaint by which the petitioner was deceived by the respondents which amounted to an offence punishable under section 420 of the Indian Penal Code or for that matter offence punishable under section 406 of the IPC. Even the property in question has not been described in the complaint. The nature of transaction has also not been stated in the complaint.

5 In my view, therefore, the process could not have been issued on the basis of such vague and absurd allegations made in the complaint. The learned Sessions Judge has rightly set aside the order of the learned Magistrate by allowing the revision application. I do not find any substance in both the petitions.

6 Both the petitions are dismissed.

(JUDGE)

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