

MHBI060016362014

**ORDER BELOW EXH. 26 & 99.**

These are applications filed by accused No. 3 to 5 and 7 for discharge from Section 166, 167, 177, 179, 182, 465, 467, 468, 471, 418 r/w. 34 of The Indian Penal Code, 1860 alongwith Sec. 81 & 82 of the Indian Registration Act.

02. According to accused, they are resident of Ambajogai. There is Survey No. 435/2 admeasuring 7 A. 35G. Situated at Ambajogai (for short Disputed Land). This land originally belong Chirag Mohiyoddin. He had a son namely Gulam Samdani. Gulam Samdani having two sons namely Gulam Jilani and Gulam Mehmood. However, Chirag Mohiyoddin and Gulam Samdani are dead. In the year 1964-1965 the father of complainant Adv. Sambappa Shankarappa Opale had cultivated Disputed Land through Gulam Samdani for 8 years. Thereafter, land was given to Sambappa Shankarappa Opale on 15/05/1965 on lease (Kaulnama) for the period of 98 years for ₹ 7000/-. Accordingly, his name was entered in to 7/12 extract in “ Other Rights”. Sambappa Shankarappa Opale died on 03/11/2004. Thereafter, the complainant being a heir applied for mutation to concern Talathi on 31/08/2006. At that time, the Circle Officer objected mutation on the ground of Inami Land. Meanwhile, accused No. 1 Gulam Mehmood and deceased Gulam Jilani applied to the Deputy Collector of Land Reforms for Abolition of Inam and Grant of Occupancy Rights by File No. 2005/Inam/A-9.

In that matter, the complainant and brothers were parties. At the same time, there was matter in respect of Disputed Land pending before Hon'ble State Revenue Minister. The matter was decided by the Ld. Collector on 14/07/2005 and filed was closed. The matter was decided by the Hon'ble State Revenue Minister on 05/06/2007 and accused No. 1 Gulam Mehmood Gulam Samdani Khatib and deceased Gulam Jilani were declared as Restricted Owners / Tenants. Thereafter, Mutation Entry No. 13387/2007 was passed on 16/08/2007.

03. Being aggrieved by the decision of Mantralaya, Gulam Ahemad Chirag Mohiyoddin had filed Writ Petition No. 5261/2007 before the Hon'ble High Court. Wherein, stay was granted on 13/09/2007. Stay Order was not communicated to the accused earlier. Meanwhile, R.C.S. No. 184/2007 Someshwar Vs. State & Ors. was filed. Wherein, injunction was granted on 08/10/2007. During the Stay Order of the Hon'ble High Court accused No. 1 Gulam Mehmood and deceased Gulam Jilani had executed Sale Deed No. 2754/2007 and 2755/2007 dated 18/09/2007 in favour of Nandkishor Shrirangrao Phad and Asad Mohiyoddin (Accused No. 2). These lands were transferred by **obtaining permission** of the Ld. Collector Beed. All formalities and procedure was completed on same day i.e. 18/09/2007. These Sale Deeds are lawful and no any false document is executed, prepared by the accused. Sale Deed is the Registered Document, which is document of title. So, Sec. 465, 467, 468 & 477 r/w. 34 are not attracted. Complainant has not challenged Mutation Entry No. 13387. Order of Hon'ble Minister dated 05/06/2007 is not set-aside by the Hon'ble High Court. Right, title and interest of the complainant is taken away by the Judgment

of Hon'ble Minister dated 05/06/2007. He has no right to file this complaint. Applicants are not the Government Servants so Sec. 166, 167, 177 & 179 of the IPC are not attracted. Hence, application kindly be allowed.

04. Complainant has filed say at Exh. 136. According to him, old transaction of Kaulnama is admitted. Further, there was matter in respect of Disputed Land pending before Hon'ble State Revenue Minister. However, there were no notices by the Department of State Revenue Minister to the Complainant and his brothers. The matter was decided on 05/06/2007. Accused have taken benefit of the judgment of Mantralaya and Executed false Sale Deeds No. 2754/2007 and 2755/2007 dated 18/09/2007 to deprive the rights of Complainant.

05. Being aggrieved by the decision of Mantralaya, Gulam Ahemad Chirag Mohiyoddin has filed Writ Petition No. 5261/2007 before the Hon'ble High Court. Wherein, stay was granted on 13/09/2007 and stay was continued from time to time. Meanwhile, R.C.S. No. 184/2007 Someshwar Vs. State & Ors. was filed. Wherein, injunction was granted on 08/10/2007. During the Stay Order of the Hon'ble High Court accused No. 1 Gulam Mehmood and deceased Gulam Jilani had executed in favour of Nandkishor Shrirangrao Phad and Asad Mohiyoddin (Accused No. 2). These lands were transferred by obtaining permission on the same day. All formalities and procedure was completed on same day i.e. 18/09/2007. This act of execution of Sale Deeds is contrary to the injunction orders of the Hon'ble Civil Court Senior Division and Order of Hon'ble High Court. Accused have filed Criminal Revision No. 66/2014 before the Hon'ble

Sessions Court. Such Revision is dismissed on 27/10/2015. Present accused (applicants) have not challenged order of dismissal. Other accused have filed Writ Petition No. 129/2016, 55/2016 & 322/2016 before the Hon'ble High Court. Which are withdrawn by the accused, with liberty to file discharge. The accused have acted in collusion with each other and executed Sale Deeds No. 2754/2007 and 2755/2007. There is no substance in the application. Hence, application kindly be rejected.

06. Heard Ld. Adv. M. L. Jadhav and Ld. Adv. J. U. Bharajkar at length. Complainant has relied on following documents.

No.	Document	Exhibit
1	7/12 Extracts	300, 301, 304, 313
2	Mutation Entry No. 11864, 13387	302, 303
3	Writ Petition No. 5261/2007	305 to 308 & 344
4	Sale Deed No. 2755/2007	309
5	Sale Deed No. 2754/2007	310
6	RCS No. 184/2007 - Exh. 1	311
7	RCS No. 184/2007 - Exh. 5	312
8	Sale Deed No. 3071/2009	314
9	Sale Deed No. 1496/2011	315
10	Mutation Entry No. 17032, 19502 & 19627	316, 317 & 321
11	Application to TILR Ambajogai	318 – 320, 322 - 327
12	Application to AGP, Panchanama and Intimations	328 – 330

13	Application to Addl. Collector	331
14	Kaulnama (Lease)	332
15	Application to Inspector of Stamp	333
16	Cri. Writ Petition No. 322/2016	342
17	Cri. Revision Appln. No. 66/2014	343

Accused have relied on following documents.

No.	Document	Exhibit
1	Map and Applications	337

ADMITTED FACTS :

07. That, the Chirag Mohiyoddin was the Original Owner of sy No. 435/2 (C) situated at Ambajogai. Son Gulam Samdani had given the disputed property to father of complainant Sambappa Opale on lease for 8 years. Sambappa Opale died on 03/11/2004. Matter in respect of Disputed Land was pending before Hon'ble State Revenue Minister, which is decided on 05/06/2007. Gulam Ahemad Chirag Mohiyoddin has filed Writ Petition No. 5261/2007 before the Hon'ble High Court. Wherein, stay was granted on 13/09/2007 and stay was continued from time to time.

08. Meanwhile, R.C.S. No. 184/2007 Someshwar Vs. State & Ors. was filed, wherein, injunction was granted on 08/10/2007. During this period, accused have executed Sale Deeds No. 2754/2007, 2755/2007 & 3071/2009.

LEASE (KAULANAMA)

09. The complainant has claiming rights in the property on the basis of lease executed since 1957 to 1965. Therefore, name of his father Sambappa Opale appears in the Revenue Record in Other Rights.

10. However, Original nature of the land was the Inami Land. This factual aspect is most important in this matter. This nature of land is subsequently confirmed by the Judgment of Hon'ble Mantralaya dated 05/06/2007. The right of Sambappa Opale came to an end by the Judgment. Therefore, alleged lease (Kaulnama) become **infructuous**.

11. After the Judgment of Mantralaya, Mutation Entry No. 13387 was sanctioned on 16/08/2007 (Exh. 303). This entry specifically shows **rejection of objection** of the Basavraj Opale (Complainant) on the basis of Judgment of Mantralaya. Therefore, his objection was dually considered by the Revenue Authority and same was rejected. This aspect is **very material** to discard right, title and interest of the complainant.

CRIMINAL ASPECT

12. Material question is that, whether applicants have prepared false documents and thereby executed Sale Deeds Exh. 309, 310, 314 and 315 ?

13. Main allegations are in respect of obtaining Permission of the Ld. Collector dated 18/09/2007 and completing process of challan on same day. I have gone carefully through Sale Deed No. 2754 / 2007 and 2755 / 2007. Both Sale Deeds have following common aspects.

- Both Sale Deeds are prepared on the same day – 18/09/2007.
- Both Sale Deeds are executed after obtaining lawful permission of the Ld. Collector, Land Reforms Beed dated 18/09/2007.
- Before permission, Ld. Collector had called report of the Ld. Tahsildar dated 10/09/2007. It shows previous steps and procedural follow up.
- This Permission is granted after depositing the necessary charges by the Challan No. 45 dated 18/09/2007.
- These Sale Deeds are executed with necessary documents such as Death Certificate, Heirship Application No. 172/2008 & 7/12 extract.

14. Therefore, allegations of completing procedure in a day is false. The Original owner's have followed due procedure established by law. Simultaneously, Ld. Collector has acted in Official Capacity and followed due procedure established by law.

15. Then, both Sale Deeds are executed by the P. L. Gangthade Sub Registrar Ambajogai. There is no any false, bogus documents prepared by the applicant or submitted by the applicants. I do not find any irregularity in the execution of Sale Deeds.

16. JUDICIAL PROCEEDINGS AND EFFECT

No.	Proceeding & Order	Effect
1.	R.C.S. No. 184/2007 Interim Ex-party Injunction granted on 08/10/2007 till further order	<ul style="list-style-type: none"> Suit is filed on 08/10/2007. Prior to that, Sale Deed No. 2754 & 2755 are executed on 18/09/2007. No record of communication or service to defendant No. 4 to 7 (Gulam Mehmood, Ahamad, Gulam Mehmood & Nandkishor Phad). Present Applicant No. 3 & 4 were not parties in R.C.S. No. 184/2007. So, Sale Deed No. 3071/2009 dated 22/09/2009 was executed. All necessary documents are attached for sale. Present Applicant No. 5 was not party in R.C.S. No. 184/2007. So, Sale Deed No. 1496/2011 dated 28/03/2011 was executed. Finally, application is rejected on 24/07/2013.
2.	M.C.A. No. 43/2013 Appeal against Injunction Order dated 24/07/2013. Appeal dismissed on 09/04/2014.	<ul style="list-style-type: none"> Ownership & Possession of the Defendant No. 4 & 5 in R.C.S. NO. 184/2007 is maintained. Judgment of Mantralaya remained unchallenged. Finally, Appeal dismissed on 09/04/2014.

3.	<p>Writ Petition No. 5261/2007</p> <p>Order of Mantralaya challenged by the Defendant No. 6 Gulam Mehmood of R.C.S. No. 184/2007.</p>	<ul style="list-style-type: none"> • Stay is granted on 13/09/2007. • Complainant and applicants were not parties to the Writ Petition. • No record of communication or service to defendant No. 4 & 5 (Gulam Mehmood, Gulam Ahamad). • Stay continued on 13/09/2007, 07/12/2007 till 21/01/2008. • Finally, Petition is withdrawn on 19/01/2023. • Judgment of Mantralaya remained unchallenged.
4.	<p>Criminal Writ Petition No. 322/2016, 129/2016 & 55/2016</p> <p>Revision No. 66/2014 against order of Issue Process dismissed. So, these petitions</p>	<ul style="list-style-type: none"> • Withdrawn by applicants with liberty to file discharge. • Issue Process can not be mixed with the framing of charge. • After liberty, stage of discharge is opted.
5.	<p>Criminal Revision No. 66/2014</p> <p>Order of Issue Process dated 01/11/2014 is challenged.</p>	<ul style="list-style-type: none"> • Issue Process can not be mixed with the framing of charge. • Both stages and effects are different. It does not hamper right to discharge.

17. Ld. Adv. Bharajkar for Complainant has relied on the following authority.

Sr. No.	Authority	Ratio
01.	Ashok Gajanan Karale V/s. State of Maharashtra Hon'ble Bombay High Court 2014 All M.R. (Cri.) 2979.	It is admitted position that land in question has been sold by the applicant. Whether the land belongs to the applicant or non-applicant no. 2 is not the issue before this Court. The issue before the trial court, as well as, before this Court in the present application is, as to whether the applicant had dishonestly prepared a false document or not ? and that too commit an offence of cheating. Since the revenue proceedings were pending before the Sub-divisional officer in a revenue appeal, the applicant could not have made a statement in the sale deeds that no proceedings of any nature including revenue proceedings were pending in respect of the land. As such prima facie the applicant had made a false statement. From the allegations made against the applicants in the FIR, it appears that false statement was made dishonestly.

18. Ld. Adv. Jadhav for accused have relied on the following authorities.

Sr. No.	Authority	Ratio
01.	Kisan Singh Through Lrs. V/s. Gurupal Singh & Ors. Hon'ble Supreme Court Criminal Appeal No. 1500 of 2010	12. In M/s Karamchand Ganga Pershad & Anr. Vs. Union of India & Ors., AIR 1971 SC 1244, this Court, while dealing with the same issue, held as under :- "It is well established principle of law that the decisions of the civil courts are binding on the criminal courts. The converse is not true." 15. The correctness of the aforesaid judgment in V.M. Shah (supra) was doubted by this Court and the case was referred to a larger Bench in

<p>Dated 12/08/2010.</p>	<p>K.G. Premshankar Vs. Inspector of Police & Anr., AIR 2002 SC 3372. In the said case, the Judgment in V.M. Shah (supra) was not approved. While deciding the case, this Court placed reliance upon the Judgment of the Privy Council in Emperor Vs. Khwaja Nazair Ahmad, AIR 1945 PC 18 wherein it has been held as under :-</p> <p>"It is conceded that the findings in a civil proceeding are not binding in a subsequent prosecution founded upon the same or similar allegations. Moreover, the police investigation was stopped and it cannot be said with certainty that no more information could be obtained. But even if it were not, it is the duty of a criminal court when a prosecution for a crime takes place before it to form its own view and not to reach its conclusion by reference to any previous decision which is not binding upon it."</p> <p>(Emphasis added)</p> <p>16 In Iqbal Singh Marwah & Anr. Vs. Meenakshi Marwah & Anr., (2005) 4 SCC 370, this Court held as under :-</p> <p>"Coming to the last contention that an effort should be made to avoid conflict of findings between the civil and criminal courts, it is necessary to point out that the standard of proof required in the two proceedings are entirely different. Civil cases are decided on the basis of preponderance of evidence while in a criminal case the entire burden lies on the prosecution and proof beyond reasonable doubt has to be given. There is neither any statutory provision nor any legal principle that</p>
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the findings recorded in one proceeding may be treated as final or binding in the other, as both the cases have to be decided on the basis of the evidence adduced therein."

22. In cases where there is a delay in lodging a FIR, the Court has to look for a plausible explanation for such delay. In absence of such an explanation, the delay may be fatal. The reason for quashing such proceedings may not be merely that the allegations were an after thought or had given a coloured version of events. In such cases the court should carefully examine the facts before it for the reason that a frustrated litigant who failed to succeed before the Civil Court may initiate criminal proceedings just to harass the other side with mala fide intentions or the ulterior motive of wreaking vengeance on the other party. Chagrined and frustrated litigants should not be permitted to give vent to their frustrations by cheaply invoking the jurisdiction of the criminal court. The court proceedings ought not to be permitted to degenerate into a weapon of harassment and persecution. In such a case, where an FIR is lodged clearly with a view to spite the other party because of a private and personal grudge and to enmesh the other party in long and arduous criminal proceedings, the court may take a view that it amounts to an abuse of the process of law in the facts and circumstances of the case. (vide : Chandrapal Singh & Ors. Vs. Maharaj Singh & Anr., AIR 1982 SC 1238; State of Haryana & Ors. Vs. Ch. Bhajan Lal & Ors., AIR 1992 SC 604; G. Sagar Suri & Anr. Vs. State of U.P. & Ors., AIR 2000 SC 754; and Gorige Pentaiah Vs. State of A.P. & Ors., (2008) 12 SCC 531).

24. It is to be noted that the appellants' father Kishan Singh lodged FIR No.144/02 on 23.7.2002 through his attorney Jaswant Singh Mann under [Sections 420/323/467/468/471/120-B](#) IPC, against the respondents. The allegations made in the FIR were substantially similar to the allegations

		made by the appellants in Civil Suit No.1075/96, which had been decided against them. It is evident that the aforesaid FIR was filed with inordinate delay and there has been no plausible explanation for the same. The appellants lodged the aforesaid FIR only after meeting their Waterloo in the Civil Court. Thus, it is evident that the FIR was lodged with the sole intention of harassing the respondents and enmeshing them in long and arduous criminal proceedings. We are of the view that such an action on the part of the appellants' father would not be bona fide, and the criminal proceedings initiated by him against the respondents amount to an abuse of the process of law.
02.	Uma Shankar Gopalika V/s. State of Bihar Hon'ble Supreme Court Criminal Appeal No. 1049 of 1998 dated 24/03/2004, 2005(10) SCC 336	6. Now the question to be examined by us is as to whether on the facts disclosed in the petition of complaint any criminal offence whatsoever is made out much less offences under Sections 420/120-B IPC. The only allegation in the complaint petition against the accused persons is that they assured the complainant that when they receive the insurance claim amounting to Rs 4,20,000, they would pay a sum of Rs 2,60,000 to the complainant out of that but the same has never been paid. Apart from that there is no other allegation in the petition of complaint. It was pointed out on behalf of the complainant that the accused fraudulently persuaded the complainant to agree so that the accused persons may take steps for moving the Consumer Forum in relation to the claim of Rs 4,20,000. It is well settled that every breach of contract would not give rise to an offence of cheating and only in those cases breach of contract would amount to cheating where there was any deception played at the very inception. If the intention to cheat has developed later on, the same cannot amount to cheating, hi the present case it has nowhere been stated that at the very inception there was any intention on behalf of the accused persons to cheat which is a

		<p>condition precedent for an offence under Section 420 IPC.</p> <p>7. In our view petition of complaint does not disclose any criminal offence at all much less any offence either under Section 420 or Section 120-B IPC and the present case is a case of purely civil dispute between the parties for which remedy lies before a civil court by filing a properly constituted suit. In our opinion, in view of these facts allowing the police investigation to continue would amount to an abuse of the process of court and to prevent the same it was just and expedient for the High Court to quash the same by exercising the powers under Section 482 Cr.P.C. which it has erroneously refused.</p>
03.	<p>V.R. Dalal & Ors. V/s. Yogendra Naranji Thakkar & Another.</p> <p>Hon'ble Supreme Court</p> <p>Criminal Appeal No. 925 of 2008 Dated 16/05/2008</p>	<p>12. It may be true that in the event the court finds that the dispute between the parties is civil in nature, it may not allow the criminal proceedings to go on. But, no law, in our opinion, as such can be laid down as in a given case both civil suit and criminal complaint would be maintainable although the cause of action for both the proceedings is the same.</p> <p>13. We, however, in this case are satisfied that the appellants by no stretch of imagination can be said to have committed an offence particularly when admittedly the new firm has been cancelled from its very inception. If the new firm has not derived any income, the question of depriving the claimant therefrom does not arise. Whether the constitution of the said firm was illegal or mala fide, thus, need not be gone into as by reason thereof the respondent No. 1 cannot be said to have suffered any loss.</p>

04.	<p>Sanappareddy Maheedhar & others V/s. State of Andra Pradesh</p> <p>Criminal Appeal No. 1708 of 2007 Dated 13/12/2007.</p>	<p>We are further of the view that in the peculiar facts of this case, continuation of proceedings of CC No.240/2002 will amount to abuse of the process of the Court. It is not in dispute that after marriage, Shireesha Bhavani lived with appellant No.1 for less than one and a half months (eight days at Hyderabad and about thirty days at New Jersey). It is also not in dispute that their marriage was dissolved by the Superior Court at New Jersey vide decree dated 15.12.1999. Shireesha Bhavani is not shown to have challenged the decree of divorce. As a mater of fact, she married Sri Venkat Puskar in 2000 and has two children from the second marriage. She also received all the articles of dowry (including jewellery) by filing affidavit dated 28.12.1999 in the Superior Court at New Jersey. As on today a period of almost nine years has elapsed of the marriage of appellant No.1 and Shireesha Bhavani and seven years from her second marriage. Therefore, at this belated stage, there does not appear to be any justification for continuation of the proceedings in CC No.240/2002. Rather, it would amount to sheer harassment to the appellant and Shireesha Bhavani who are settled in USA, if they are required to come to India for giving evidence in relation to an offence allegedly committed in 1998-99. It is also extremely doubtful whether the Government of India will, after lapse of such a long time, give sanction in terms of Section 188 Cr.P.C.</p> <p>For the reasons stated above, the appeal is allowed, the order of the learned Single Judge of the High Court is set aside and the proceedings of CC No.240/2002, pending in the Court of XXII Metropolitan Magistrate, Hyderabad, are quashed.</p>
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<p>05. Shanti Kumar Panda V/s. Shakuntala Devi Hon'ble Supreme Court Civil Appeal No. 10906 of 1996 dated 03/11/2003</p>	<p>It is well-settled that a decision by a Criminal Court does not bind the Civil Court while a decision by the Civil Court binds the Criminal Court.</p>
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19. I have gone carefully through these authorities. Moreover, Mutation Entry No. 13387 is **not challenged** by the complainant. However, Exh. 304 shows possession of the complainant and his brothers for the year 2007-2008. This being aspect of possession and civil nature, does not override the Judgment of Mantralaya. Thereafter, the observations of Hon. CJSD in RCS 184/2007 (Exh.5 Order) and Hon. District Court in M.C.A. No. 43/2013 (Appeal against Exh.5 Order) **confirmed right, title and possession of the defendant No. 4 & 5.**

20. As per authority of **Hon'ble Supreme Court in *Shanti Kumar Panda*** decision by the Civil Court binds the Criminal Court. So, after decision of State Minister nothing is left with complainant. Only remedy was the to challenge the Judgment, which is not done till today. In this situation, authority of ***Ashok Gajanan Karale*** would not help the complainant. Initially, there was proceeding before State Revenue Minister and thereafter, Mutation Entry No. 13387 is passed. Sale Deeds are prepared with revenue inquiry and with the permission of competent authority. So, there is no false, bogus document to cheat the complainant.

21. As discussed earlier, this matter is outcome of civil dispute. So, as per decision of **Hon'ble Supreme Court in V. R. Dalal & Ors.** dispute between the parties is civil in nature, it may not allow the criminal proceedings to go on.

22. **IMPORTANT POINTS**

- Initially, The matter was decided by the Ld. Collector on 06/11/1999. Against which, appeal was preferred before The Hon'ble Revenue Minister.
- Hon'ble Revenue Minister allowed the appeal of Accused No. 1 and Gulam Jilani Gulam Samdani Khatib and they were declared as **Restricted Owners** of disputed land.
- Then, Ld. Tahsildar has rejected plea of Mutation of the complainant and his brothers by Judgment dated 21/02/2008.
- Thereafter, appeal was preferred before Ld. SDO Ambajogai, which is dismissed by Judgment dated 25/08/2008.
- Thereafter, appeal was preferred before Ld. Additional Collector Ambajogai, which is dismissed by Judgment dated 04/01/2012.
- There is no Appeal against order of dismissal.

23. It is apparent from record that, the disputed land Sy No. 435/2/C was the **Madat Mass Land**, which is transferable with the permission of Appropriate Authority. Argument of the Tenancy is rejected by the Learned Tahsildar. Previous nature of land was abolished by the Abolition of Inam and Grants Act. Thereafter, as per procedure **Occupancy Rights** were granted.

24. In present matter, nature of land is well described as *Muntkhab* in the judgment of -

- Honble State Minister (Page No. 5).
- Judgment of Learned Tahsildar dated 21/02/2008.
- Judgment of Learned S. D.O dated 25/08/2008.
- Judgment of Addl. Collector dated 04/01/2012.

25. However, the above authorities have relied on the observations of learned C.J.S.D. in RCS No. 184/2007. All these proceeding are against claim of the complainant. Therefore, merely having entry in the Other Rights does not affect Revenue and Judicial decisions. Thus, subsequent development of land or measurement does not come under act of cheating.

26. Learned Adv. Bharajkar argued on the point of no sanction is required for applicant / Accused No. 3 to 5 and 7 as they are not Government Servants. In my view, complainant has **specific allegation** in Para 8 to 10 and 14 in respect of collusive act of executing Sale Deeds. Therefore, with the aspect of Common Intention Section 34 of the I.P.C. comes in to picture. It cannot be read separately. Thus, alleged act have to be examined with Section 197 of the Cr.P.C. In view of the discussion, Complaint is not tenable for **want of Sanction**.

27. It is needful to mention that, Civil Allegations can not be mixed or equated with the Criminal Allegations. This matter is outcome of Civil Dispute. Once, Civil Rights are rejected by the Revenue Authority and Civil Courts, on that basis, Criminal Allegations are not sustainable.

28. There is no basic or initial intention of the Restricted Owners to sale land illegally. Procedure for Sale of Land is carried out since **28/08/2007 to 18/09/2007**. Sale Procedure is supported by the **Report of the Larned Tashildar** Dated 10/09/2007. Then, Sale Transaction took place on 18/09/2007. There is no immediate sale or permission granted. For the reasons of :

- firstly, unchallenged judgment of Hon. Revenue Minister,
- secondly, by the rejection of injunction by both Courts.
- thirdly, for the rejection of mutation and extinguishable rights of cultivation of Complainant
- fourthly, by obtaining lawful permission, there is no substance in the dragging accused for unwanted litigation.

29. I do not find substance to frame charge against them. Further proceeding against them will result into harassment and miscarriage of Justice. In this background, charge and trial against applicants will result into misuse of process and time. In the result, following order is passed in the interest of justice.

:: ORDER ::

01. Application is allowed.
02. Accused **Gorakh Dadarao Thorat, Dharmraj Vitthal Kadam, Purushottam Bhagwandas Bansali and Rameshwar Shrinivas Randad** are discharged from Section 166, 167, 177, 179, 182, 465, 467, 468, 471, 418 r/w. 34 of the Indian Penal Code, 1860 alongwith Sec. 81 & 82 of the Indian Registration Act.
03. Bail Bonds of accused are cancelled. Sureties are discharged.

Date : 18/10/2023.
Place : Ambajogai.

(**N. C. Borphalkar**)
2nd Judicial Magistrate F.C., Ambajogai

:: Certificate of Stenographer ::

“I affirm that the contents of this PDF file are word to word as per original Order.”

Dictated On : 18/10/2023

Transcribed On : 18/10/2023

Checked & Signed On : 18/10/2023

Date : 18/10/2023

Place : Ambajogai.

Sd/-

(S. S. Gupta)

Stenographer Grade III

2nd Jt. C.J.J.D. & J.M.F.C., Ambajogai.