

MHRT050005772012



Presented on : 18/08/2012

Registered on : 18/08/2012

Decided on : 11/05/2026

Duration : 13Y. 08M. 24D.

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, COURT
NO. 2, KHED, TAL. KHED, DIST. RATNAGIRI**

(Presided over by D. G. Mhaske)

R.C.C. No.90/2012

Below Exh. 94/B

Raghunath Rayaji Yadav,

Age : 54 years, Occu.: Agriculture,

R/o.: At. Post. Ambavali, Mahadev Nagar,

Tal. Khed, Dist. Ratnagiri.

... Complainant

- V/s -

01. Pratik P. Kumar,

Age : 40 years, Occu.: Business,

R/o.: Row House No.1, Gold Field Enclave Soc.,

South Main Road, Koregav Park,

Pune. 411001.

02. Nirmal Daulat Torane,

Age : 41 years, Occu.: Service,

R/o.: Roop Nagar, Nigadi, Pune,

Dist. Pune.

...Accused

(Trial of accused No.2 is separated from accused No.1 as per order below Exh.40)

OFFENCE : Under Section 423, 420 r/w 34 of the Indian Penal Code, 1860.

Ld. Advocate for the complainant : S. G. Chikane
Ld. Advocate for the accused : A. A. Jagtap

JUDGMENT
(Delivered on 11th May, 2026)

01] This is a complaint instituted otherwise than on police report. The complainant has filed present complaint against accused No.1 and accused No.2 for the offence punishable under Section 423, 420 r/w 34 of the Indian Penal Code, 1860.

The complainant's case in brief is as under:

02] The land bearing Gat No.595, 622, 865, 1208, 1686, 1458, 1875, 1885, 1909, 2028 and 2031 as described in para No.1 of the complaint situated at Mouje Ambavali, Tal. Khed, Dist. Ratnagiri are ancestral and joint family properties of the complainant and co-sharers. According to the complainant, he and his brothers have half share in said properties and remaining half share belongs to his uncle Ramchandra Govind Yadav. On 28.07.2011 accused have executed agreement for sale in respect of said properties and illegally used name of the complainant in such transaction. It is alleged that the complainant never intended to sell the properties and there was no meetings between the complainant and accused prior to alleged transaction. It is alleged that accused falsely mentioned in agreement

for sale that consideration amount was paid to the complainant and his brothers by cheques though no such payment was made. According to the complainant, accused prepared false document and thereby cheated him. Hence, present complaint.

03] Considering the verification statement of the complainant and the documents produced along with the complaint, my learned predecessor has issued a process against both accused for the offence punishable under Section 423, 420 r/w 34 of the IPC. Presence of accused No.1 could not be secured and therefore trial against accused No.2 was separated from accused No.1 vide order below Exh.40 dated 16.03.2019. Charge came to be framed against accused No.2 only at Exh.66 for the said offence. Accused No.2 pleaded not guilty to the accusation stated to him and claimed to be tried.

04] At the trial, to substantiate the indictment against accused, the complainant examined himself (evidence before charge at Exh.1) only and also tendered some documents i.e. Exh.88 and 89 on record. The complainant's evidence closed vide pursis Exh.90.

05] The statement of accused No.2 under section 313 of the Code of Criminal Procedure was recorded at Exh.91. The accused No.2 denied allegations and contended that the complainant and his uncle had negotiated transaction with him. According to accused No.2, at the time of registration the complainant demanded more amount and therefore transaction regarding complainant's share could not materialize. It is contended that agreement regarding share

of Ramchandra alone come to be executed and due to mistake names of the complainant and his brothers were not properly deleted from document. Accused No.2 did not adduce defence evidence.

06] I have heard arguments of Shri. S. G. Chikane, learned advocate for the complainant and Shri. A. A. Jagtap, learned advocate for accused No.2. Perused the evidence and the material on record. In the light of the defence raised by the accused No.2, the submission across the bar and the material on record, the following points arise for my consideration. I have recorded my findings against each of them for the reasons to follow:

Sr. No.	POINTS	FINDINGS
1.	Whether the complainant proves that, accused No.2 in furtherance of common intention with accused No.1 dishonestly executed false agreement for sale and thereby committed offence under Section 423 r/w 34 of the IPC?	In the negative.
2.	Whether the complainant proves that, accused No.2 in furtherance of common intention with accused No.1 cheated the complainant and thereby committed offence under Section 420 r/w 34 of the IPC?	In the negative.
3.	What order?	As per final order.

-: REASONS :-**As to the Point No.1 and 2 :**

07] The complainant Raghunath (CW-1) has deposed that properties in question are ancestral and joint properties. According to him, he and his brothers have half share whereas remaining half share belongs to his uncle Ramchandra. He stated that accused No.2 prepared false agreement for sale and falsely mentioned payment of consideration amount by cheques to the complainant and his brothers.

08] During his cross-examination, the complainant admitted that half share stands in the name of his uncle Ramchandra and that he has no concern with share of Ramchandra. He further admitted that his uncle Ramchandra had sold his share to accused No.2 by agreement for sale. He also admitted that there was no agreement for sale regarding his own share.

09] Perusal of document Exh.88 i.e. copy of agreement for sale dated 28.07.2011 clearly reveals that names of the complainant and his brothers and mother are crossed out in the document. The complainant specifically admitted that their names were crossed in agreement. He further admitted that there is no signature or photograph of the complainant, his brothers or mother on the agreement and only signature and photograph of his uncle Ramchandra appear on said document.

10] Though the complainant alleged false recital regarding

payment of consideration amount by cheques, except bare oral allegation no independent evidence is produced regarding such alleged false payment. No bank document, cheque details or any corroborative material is brought on record. It is pertinent to note that the complainant has admitted that he has not filed any civil suit for cancellation of agreement for sale. He also admitted that he has not filed any complaint against executant Ramchandra or attesting witnesses to agreement. These admissions materially affect the complainant's case.

11] To constitute offence punishable under Section 423 IPC, the complainant must establish dishonest or fraudulent execution of deed containing false statement relating to consideration or person for whose benefit transfer is made. Mere existence of disputed recital in document is not sufficient unless dishonest intention is proved beyond reasonable doubt. In the present case evidence indicates that negotiations were taking place regarding entire property and ultimately agreement came to be executed only by Ramchandra regarding his share. Defence of accused No.2 that the complainant refused to proceed with transaction cannot be ruled out. Similarly, essential ingredients of offence punishable under Section 423 IPC are deception and dishonest inducement from inception. In the present case the complainant admittedly did not execute any agreement in respect of his share nor delivered possession of his share pursuant to alleged inducement. There is no evidence showing dishonest inducement or delivery of property. It is settled principle of law that

criminal liability cannot be fastened merely because civil dispute exist between parties regarding property transaction. Evidence on record is insufficient to establish offences under Section 423 and 420 r/w 34 IPC beyond reasonable doubt. The complainant failed to prove the ingredients of alleged offence against accused beyond reasonable doubt. Hence, I recorded my findings in the negative as to the point No.1 and 2.

As to the Point No.3:

12] In the view of negative findings as to the point No.1 and 2, the accused No.2 deserves to be acquitted of offences punishable under Section 423 and 420 r/w 34 IPC. As regards, accused No.1, record reveals that proceedings against him were separated vide order below Exh.40 dated 16.03.2019 and his presence could not be secured. No charge has been framed against accused No.1 till date. In view of findings recorded here in above and absence of incriminating material against accused No.1, no useful purpose would be served by keeping separated proceeding against him. Hence, following order.

ORDER

1] Accused No.2 is acquitted of offences punishable under Section 423 and 420 r/w 34 of the Indian Penal Code under Section 248(1) of the Code of Criminal Procedure.

2] Proceedings against accused No.1 stand

discharged.

- 3] Bail bonds of accused stands cancelled.
- 4] Accused No.2 shall furnish bail in P.B. and S.B. of Rs.15,000/- in the like amount as per Section 437(A) of the Code of Criminal Procedure to require him to appear before next Appellate Court.

(Dictated and pronounced in open court)

Khed
Date: 11/05/2026

(D.G.Mhaske)
Judicial Magistrate First
Class, Court No.2, Khed.

CERTIFICATE

Case No.	:	R.C.C. No. 90/2012
I affirm that the contents of this pdf file Judgment/order are same word as per original Judgment/order.		
Name of Clerk	:	Shri. J. D. Ambekar
Court Name	:	2 nd Jt. CJJD & JMFC, Khed
Date of Decision	:	11.05.2026
Judgment /Order signed by Presiding Officer on	:	11.05.2026
Judgment /Order uploaded on	:	11.05.2026