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R.C.C. NO. 12/2021
CNR-MHSN110000932021

ORDER BELOW EXH. 1

1. The present complaint is filed u/s 420, 465, 466, 467, 468, 471, 193(3), 199, 200 and 34 of Indian Penal Code.
2. Perused complaint, document filed along-with complaint and verification of the complainant. It reveals that, on 23/09/2008 the complainant purchased agricultural land in Gut no. 154 total ad-measuring 5 hector 79 R to the extent of 1 hector 95.7 R from Non applicant no. 1 and one Sanjay Vithoba Mali. Due to the loan of Non applicant no. 1 from Sumitra Rural Non agricultural Credit Society Akhuj branch Piliv the revenue entry in the name of the complainant is reversed. By taking this advantage of the name of non applicant no. 1 he mortgaged the said property to the Non applicant no. 4 by executing mortgage deed. In fact the non applicant no. 1 had not any right or interest to mortgage the property and after that the said property had been sold to the non applicant no. 7 by non applicant no. 4 to 6. All the non applicants with common intention executed false and bogus sale deeds, mortgage deed and self declaration affidavits with intent to cheat the complainant.
3. Perused the complaint, documents filed along-with it, verification of the complainant and witness and police report u/s 202 of Cr.P.C. Learned Advocate for the complainant argued that the non applicant no. 1 with intent to cheat the complainant executed false, bogus sale deed and mortgage deed with common intention of all other non applicants. The non applicants created bogus documents in-spite of having knowledge that the said property was sold to the complainant. The complainant proved prima facie case against all the non applicants. There are prima facie ingredients of section 420, 465,

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466, 467, 468, 471, 193(3), 199, 200 and 34 of Indian Penal Code and prayed to issue process against all the non applicants for the said offences.

4. Perused the record and submissions of both the parties. Prima-facie it appears that, the non applicant no. 1 had executed sale deed in favour of the complainant in respect of land Gut no. 154 situated at Galvewadi, Tal. Atpadi, Dist. Sangli. In-spite of execution of sale deed the non applicant no. 1 mortgaged the said property with the non applicant no. 4. By taking disadvantage of his name appearing on the 7/12 extract of land Gut no. 154 situated at Galvewadi.

5. When the non applicant no. 1 became defaulter, the non applicant no. 4 through non applicant no. 6 sold the said property to the non applicant no. 7. From the above discussion it appears the non applicant no. 1 in-spite of having knowledge of execution of sale deed in favour of the complainant he mortgaged the said property with the non applicant no.4 with intent to cheat the complainant. The non applicant no. 2 and 3 are the sureties to the mortgage deed executed in favour of the non applicant no. 4. Prima facie there is no evidence that the non applicant no. 2 and 3 had the knowledge of the previous sale deed in favour of the complainant.

6. From the complaint, verification of the complainant and witnesses, it does not appear that the non applicant no. 2 to 7 had common intention with the non applicant no.1 to cheat the complainant by doing subsequent transactions. Prima facie there are no ingredients of alleged offence against the non applicant no. 2 to 7.

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There are prima facie ingredients of section 420, 465 and 468 of I.P.C. against the non applicant no. 1. Hence, I pass following order.

ORDER

Issue process against the non applicant no. 1 as per section 204 of the Cr.P.C., 1973 for the offence punishable under section 420, 465, 468 of Indian Penal Code. R/o. 03/02/2023.

Atpadi.
Date : 03/01/2023

(Anant R. Tengse)
Judicial Magistrate First Class,
Atpadi.