



ORDER BELOW EXH.01

The present application has been filed under section 175(3) of The Bharatiya Nagarik Suraksha Sanhita, 2023 (In short “The BNSS, 2023”) for giving direction to the Tembhurni Police Station to register crime against Accused No. 1 to 8 for offences punishable under sections 419, 420, 465, 467, 468, 471, 199, 200 r/w 34 of the IPC (sections 319 (2), 318(4), 336(2), 336(3), 340(2), 236, 237, 3(5), 61(2) of the BNS, 2023) and Section 82 of the Indian Registration Act.

2) It is the case of complainant that, he is son of Accused No.1. Accused No.2 is a person having similar name of the complainant. Accused No.1 was having ancestral agricultural land bearing Gat No. 179/3 situated at Jadhavwadi Taluka Madha. It is alleged that, as on 18/11/2022 Accused No.1 by pretending that, accused No.2 is his son illegally executed registered Gift Deed bearing No. 6445/2025 of said property in his favour. Accused No. 5 and 6 are witnesses to the said gift deed. Thereafter, Accused No. 3 and 4 purchased said property vide sale deed 5583/2023 and 5584/2023 dated 09/10/2013 from Accused No.2 with intention to deprive right/share of the complainant in the said property which was illegally gifted to Accused No. 2 by Accused No.1 and cheated with the complainant. Accused No. 7 and 8 are witnesses to the said sale deeds.

3) It is further alleged that, the father of the complainant i.e. Accused No.1 received agricultural land 00 H 24 R in Gat No. 179/3 in partition took place in between Accused No.1 and his brother. Accused No.1 and the complainant residing separately since so many years and the complainant is having peaceful possession over the said property. Despite of that, in 2022 Accused No. 1 gave name of the complainant to Accused No.2, prepared his Adhaar Card and PAN card in the name of complainant and pretending Accused No.2 as complainant executed and registered gift deed dated 18/11/2022 in his favour without knowledge of the complainant.

Thereafter, out of said property, Accused No. 2 sold 00 H 12 R to Accused No. 3 and 00 H 12 R sold to Accused No. 5. It is further alleged that, Accused No. 2 is not having concern with the said property and family of the complainant. Despite that, Accused No.2 with intention to cheat and cause loss to the complainant got executed illegal gift deed of said property from Accused No.1 and thereafter in furtherance of common intention with Accused No. 5 to 8 sold property to Accused No. 3 and 4, thereby committed offence of cheating against the complainant.

4) It is further alleged that, the complainant went to police Station Tembhorni to lodge report against accused and also filed complaint application before the commissioner of Police Division Karamala. However, police did not take cognizance. Hence, the complainant has filed present application.

5) As per order below Exh. 1 dated 21/03/2025, the action taken report of concern P.I. was called and accordingly, he submitted his detail report along with the statements of witnesses on record at Exh.5 dated 23/06/2025.

6) Perused complaint, report and documents filed on record. Heard learned Advocate for the complainant.

7) On-going through the complaint it appears that, it is the dispute in between the complainant and his father i.e. Accused No.1 in respect of agricultural land admeasuring 00 H 24 R land situated in Gat No. 179/3 at Jadhavwadi, Taluka Madha. It is alleged that, by pretending Accused No.2 as complainant, Accused No.1 executed and register illegal gift deed of said property in favour of Accused No.2 and deprived share/right of the complainant. However, the complainant contended that, Accused no. 1 received said property in partition took place in between Accused No.1 and his brother, which shows that, the said property belongs to Accused No.1.

8) On perusal of gift deed of said property filed record, it appears that, Accused No.1 executed and registered said gift-deed at sub-registrar office dated 18/11/2022 which prima facie shows that, he executed gift deed of

his property which was received in partition to him. As per Section 122 of the Transfer of Property Act, a person can gift his immovable property to any other person without consideration. It is the allegation of the complainant that, the said property is ancestral property and he is having share therein. Accused No.2 is not family member, thereby, he has no concern with the said property. Upon said allegation, on perusal of report Exh.5 prima facie it appears that, statement of Accused No.1 i.e. father of the complainant is recorded. He stated that, Accused No. 2 is son of one Mankarnika, since he was 2 years old, Accused No.1 taken care of him and Accused No.1 gave his name to the Accused No.2 voluntarily. He further stated that, he gave his property to his considered son i.e. Accused No. 2 in gift. The said statement shows that, complainant and Accused No.2 though having same names but are different persons. As per said statement, it prima facie appears that, the complainant seems to be biological son and Accused No.2 is considered son (मानलेला मुलगा) of Accused No.1.

9) It further appears from the said gift deed filed on record and statement of the Accused No. 1 filed with the report Exh. 05 that, Accused No. 1 has voluntarily executed registered gift deed of his property received in partition in favour of Accused No. 2. It is not the allegation of the complainant that, by preparing his forged Adhaar card and PAN Card, Accused No. 2 got executed said gift deed in his favour. On the contrary, it further prima facie appears from the contents of complaint and documents attached with the gift deed that, Adhaar Cards, PAN numbers of the complainant and Accused No. 2 are different. Therefore, the said registered gift deed prima facie seen to be legal and thereby subsequent sale deeds executed by Accused No. 2 in favour of Accused No. 3 and 4 are also prima facie seen to be legal.

10) As regard the contention of the complainant that, said property is ancestral and he is having share therein, it is relevant to note here that, the said contention is seen to be subjected to civil litigation. The complainant is having appropriate remedy to file civil suit for challenging the said alleged gift deed

subject to limitation before civil court. In the present complaint, the dispute involved in the present matter is between the complainant and accused in respect of property of Defendant No. 1 seen to be civil nature and the complainant wants to convert said civil dispute in criminal nature which is not permissible in law. In view of this, as it appears that, the dispute between the complainant and accused in respect of property is of civil nature, therefore, no case made out to give direction to the Police Station to register crime against accused. Considering this, the application deserves to be rejected. Hence, following order,

ORDER

1. Application is rejected
2. Case be disposed off accordingly.

Date: 11/05/2026

(Anay D. Kulkarni)
Judicial Magistrate F. C. (Court No.3),
Madha

<u>CERTIFICATE</u>	
I affirm that, the contents of this P.D.F. file Order/Judgment is same word to word, as per the original order/judgment.	
Name of Stenographer	: M.P.Dixit Grade-3
Court Name	: 3 rd Jt. C.J.J.D. & J.M.F.C., Madha.
Order/Judgment signed by the Presiding Officer on	: 11/05/2026
Order/Judgment uploaded on	: 11/05/2026