

ORDER BELOW EXH. 1

Heard, Ld. Advocate Shri. P. A. Magar for the applicant.
Perused the written notes of arguments(Exh.18).

2. In short the case of applicant is that, his father Lakhanlal his uncle Pradip, Ramlal, Shankarlal, Rameschandra, Mohanlal, Omprakash are the children of Shri. Babulal and Ranibai. It is further case that, Ranibai and her minor sons had purchased Survey No. 103/1-क and 103/2-ख admeasuring 11.66 Acre from the Bajaj. Thereafter, again she purchased the survey No. 19 and 20 from Mahadole family registered sale deed dated 09/01/1998. It is further case of the applicant that, on 01/05/1969 his grandfather Babulal Agnihotri partitioned the property among his children. The applicant's father Lakhanlal got the Survey No. 103/1-क and 103/2-ख admeasuring 10.54 Acre and 0.05 Acre in his favour. Accordingly, mutation also took place on 15/01/1970.

3. Thereafter, the applicant's father Lakhanlal made that land fertile and till the year 1990, he was in possession and

cultivation and was also absolute owner of those Survey number property.

4. Thereafter, non-applicant Shankarlal (uncle) played fraud upon his father and got executed the partition deed of the above said property on 18/06/1990. Thereafter, hand in glove with the Revenue officer got the mutation entry of that partition on 09/06/1990. According to the applicant this fact itself demonstrate that how fraud is played upon his father and the document alleged to be partitioned deed was executed on 18/06/1990 and in that case how the mutation of those document could take place before the execution of document i.e. 09/06/1990. Thereafter, the non-applicant, Shankarlal in that partition made two part of the land. One part i.e. on eastern side was given to the Lakhanlal, Shankarlala and Ramesh and on western side given to the Mohan, Omprakash and Pradip.

5. Thereafter, Shankarlal, Lakhanlal and Ramesh rented property in favour of Jay Mahakali Shikshan Sanstha, Sindhi Meghe and similarly, he prepared the another rent agreement for consideration

of Rs. 1/- for per year from Mohan, Omprakash and Pradip in favour of Jay Mahakali Shikshan Sanstha, Sindhi Meghe.

6. It is further contended that, Shankarlal being a President of said Sanstha did all above mischief with help of his family members and thereby grab the land of father of applicant i.e. Babulal. Thereafter, he also got executed one unregistered gift deed dated 04/02/1993 i.e. of 100 x 100 ft. of the land out of Survey No. 239 from his family member. Thereafter, again for the same property, he got registered document from his father namely Babulal Agnihotri on 04/02/1993 in favour of said Sanstha. Due to above activity, the father of applicant was made fool and play fraud upon him by forging his signature over the unregistered gift deeds and a subsequent documents. The father of applicant, when realized all the illegal activity of the non-applicant on 26/09/1993, he committed suicide. The applicant at the time of death of his father was 24 year old.

7. Thereafter, the applicant's search here and there and in the year 2013. He realized that, the forgery and cheating was made by

his uncle non-applicant Shankarlal with his father and as such, he lodged the report to the Police Station, Wardha.

8. However, the Police did not register the complaint by saying that, it is a Civil dispute and therefore, he approached before the Court in Section 156 (3) of Code of Criminal Procedure, 1973. This court rejected the prayer of the applicant by passing the order below Exh. 1 on 30/01/2014. The court also directed to the complainant for verification on 18/03/2014. After examining the complainant order passed below Exh. 1 on 10/06/2014 and directed Police to inquired the matter under section 202 of Code of Criminal Procedure, 1973. During the course of inquiry, the police recorded the statement of the complainant and non-applicant filed a report under section 202 of Cr.P.C, 1973 on 14/07/2014. The report is not favorable to the applicant as they have clearly given finding that they do not appear any forgery of signature or cheating. Moreover, they submitted that the nature of dispute is appears to be Civil in nature and parties are requires to obtain the remedy provided under the civil law.

9. Thereafter, the applicant again made an attempt to secure the original partition deed alleged to be executed. However, the Police cannot secured those document under section 91 and section 93 of Code of Criminal Procedure, 1973 despite the order of this Court. It is shows that, those partition deeds are with the financial institution situated at Bombay. In the aforesaid circumstances, the matter is pending for hearing on the point of issuance of process against the non-applicant.

10. This court perused record, it needs to be noted here that, the matter is pending before this court since 11/11/2013 after rejection of this application under section 156 (3) of Code of Criminal Procedure, 1973. The matter is requires to be registered for the complaint case. However, without doing the same it was proceeded on premise that it is a complaint case. Thereafter, the statement of the complainant was recorded and the matter was sent for the inquiry under section 202 of the Code of Criminal Procedure, 1973. It needs to be noted that, on perusal of pleading and hearing the arguments, the father of applicant himself realized on

30/09/1993 i.e. his brother i.e. non-applicant had played fraud upon him. He could have reported the matter to the Police Station or at least filed Civil Proceedings before the Civil Court by challenging the all those document on the ground of forgery and got them cancel. However, instead of doing that his father committed a suicide. On that day, the applicant was a major i.e. of 24 years of age and he could have also got the knowledge behind his father's death. However, he kept mum till the year 2013 i.e. almost more than 20 years and he started making search in respect of property document which once belongs to his father and its partition. It needs to be noted here that, the said unregistered partition was acted upon as there are clearly mutation entries to that effects. It is pointed out to this Court that the partition deed is executed on 18/06/1990 and the mutation is effected on prior in date i.e. on 09/06/1990. This itself proves that, the non-applicant is played fraud upon his father. During the course of argument Ld. Advocate for the applicant submitted that, revenue proceedings pertaining to that mutation entry is pending before the Revenue Authority. The Police during course of inquiry under section 202 of Code of Criminal Procedure,

1973 clearly gave the report that, dispute is appears to be Civil in nature and they could not find a signature over the document of father of the applicant namely Lakhanlal, Babulal Agnihotri is forged and fabricated. Thereafter, also applicant did not try to challenge those documents before civil Court and he went to file one and another application before the Court and this matter is pending till today for the order of issuance of process. It also appears from the pleadings and argument that the non-applicant Shankarlal Babulal Agnihotri being a President of Jay Mahakali Shikshan Sanstha Sindhi Meghe. He has taken the advantage of that Sanstha. It is surprised to this court that if the father of applicant is really being a victim of those family arrangement, then he could have challenged them during his life time. Moreover, at least his other brothers namely Ramlal, Rameschandra, Mohanlal, Omprakash and Pradip could have challenged them.

11. However, it is not appeared from the record that other brother have any grievances in respect of giving the property on rent to the said Sanstha. Furthermore, the applicant on the death of his father

i.e.29/03/1993, he was major and he could have search about the document, which he has done in the year 2013, not taking of action at the relevant point of time clearly shows that, the said arrangement was agreed to the entire family. Moreover, in the year 2013 the police have directed to the applicant to opt for the civil remedy, however, he did not file civil suit. Thereafter, also perusal of the report of inquiry under section 202 Code of Criminal Procedure, 1973 dated 14/07/2014 clearly shows that there is no *prima facie* proof of forgery of signature of the father of the applicant.

12. In the aforesaid circumstances, this court is not having any material, which ignite the mind to issues the process for the offences punishable under section 468, 420, 471, 467 of Indian Penal Code, 1860. Therefore, this court pass following order :-

Order :-

The complaint is dismissed under section 203 Code of Criminal Procedure, 1973.

Wardha.

Date : 02/06/2026

(H. P Pancholi)

Judicial Magistrate First Class,
(Court no. 3), Wardha.