

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 959 OF 2013

Dhairyasheel s/o Sundarrao Solanke,
Age 57 years, Occ. Agriculture and
Business,
R/o. 1/5/772, Kranti Nagar,
Behind collector's Office,
Nagar Road, Beed,
Taluka and district Beed.

...PETITIONER

versus

1. The State of Maharashtra
Through the Police Inspector,
Beed City Police Station, Beed
Taluka and district Beed
2. Yogesh s/o Babasaheb Sanap,
Age 36 years, Occ. Service as
Deputy Manager with Beed
District Central Co-operative Bank
Limited, Beed,
R/o. Balepeer, Nagar Road, Beed,
Taluka and district Beed

...RESPONDENTS

.....
Mr. Rajendra S. Deshmukh, advocate for the petitioner
Mr. S.G. Karlekar, A.P.P. for respondent No.1
Mr. Joydeep Chatterji, advocate for respondent No.2
.....

WITH

CRIMINAL WRIT PETITION NO. 975 OF 2013

Ramesh s/o Shivdas Pokale,
Age 37 years, Occ. Social worker
R/o. Ganpati Nagar, Beed,
Taluka and District Beed.

... PETITIONER

versus

1. The State of Maharashtra
Through In-charge of Beed
City Police Station, Beed
Taluka and district Beed
2. Yogesh s/o Babasaheb Sanap,
Age 36 years, Occ. Service as
Deputy Manager with Beed
District Central Co-operative Bank
Limited, Beed,
R/o. Balepeer, Nagar Road, Beed,
Taluka and district Beed

... RESPONDENTS

.....
Mr. V. D. Sapkal, advocate for the petitioner
Mr. S.G. Karlekar, A.P.P. for respondent No.1
Mr. Joydeep Chatterji, advocate for respondent No.2
.....

WITH

CRIMINAL WRIT PETITION NO. 1013 OF 2013

Vilas s/o Dattatraya Sonawane
Age 47 years, Occ. Agriculture
R/o. Kumbhephal, Tq. Ambejogai,
District Beed.

... PETITIONER

versus

1. The State of Maharashtra
Through Police Station Officer,
City Police Station, Beed
Taluka and district Beed
2. Yogesh s/o Babasaheb Sanap,
Age 36 years, Occ. Service as
Deputy Manager with Beed
District Central Co-operative Bank
Limited, Beed,
R/o. Balepeer, Nagar Road, Beed,
Taluka and district Beed

... RESPONDENTS

-3-

.....

Mr. N.B. Khandare, advocate for the petitioner
Mr. S.G. Karlekar, A.P.P. for respondent No.1
Mr. Joydeep Chatterji, advocate for respondent No.2

.....

WITH

CRIMINAL WRIT PETITION NO. 1028 OF 2013

Amarsingh s/o Shivajirao Pandit
Age 50 years, Occ. Agriculture
R/o. "Shiv-Chhatra" Subhash Road,
Beed, District Beed.

... PETITIONER

versus

1. The State of Maharashtra
Through Police Inspector ,
City Police Station, Beed
Taluka and district Beed
2. Yogesh s/o Babasaheb Sanap,
Age 36 years, Occ. Service as
Deputy Manager with Beed
District Central Co-operative Bank
Limited, Beed,
Head Office Rajuri Ves,
Taluka and district Beed

... RESPONDENTS

.....

Mr. N.B. Khandare, advocate for the petitioner
Mr. S.G. Karlekar, A.P.P. for respondent No.1
Mr. Joydeep Chatterji, advocate for respondent No.2

.....

WITH

CRIMINAL WRIT PETITION NO. 1032 OF 2013

Madhukar s/o Pandurang Dhakne,
Age 60 years, Occ. Agriculture,
R/o. Bavi, taluka Shirur (K.),
District Beed.

... PETITIONER

versus

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1. The State of Maharashtra
Through superintendent of Police
Beed,
Taluka and District Beed
2. Yogesh s/o Babasaheb Sanap,
Age major, Occ. Dy. Manager,
of Beed District Central Co-operative Bank
Limited, Beed,
having its office at Rajuri Ves,
Beed

... RESPONDENTS

.....

Mr. Atul M. Karad, advocate for the petitioner
Mr. S.G. Karlekar, A.P.P. for respondent No.1
Mr. Joydeep Chatterji, advocate for respondent No.2

.....

WITH**CRIMINAL WRIT PETITION NO. 1038 OF 2013**

Ashok s/o Vishwanath Palave,
Age 64 years, Occ. Cost and Management
Accountant,
R/o. Bawdhan, Pune

... PETITIONER

versus

1. The State of Maharashtra
Through Superintend of Police,
Beed, district Beed
2. Yogesh s/o Babasaheb Sanap,
Age major, Occ. Dy. Manager,
of Beed District Central Co-operative Bank
Limited, Beed,
having its office at Rajuri Ves,
Beed

... RESPONDENTS

.....

Mr. Atul M. Karad, advocate for the petitioner
Mr. S.G. Karlekar, A.P.P. for respondent No.1
Mr. Joydeep Chatterji, advocate for respondent No.2

.....

WITH

CRIMINAL WRIT PETITION NO. 1054 OF 2013

1. Latabai w/o Vasant Sanap,
Age 50 years. Occ. Household,
R/o. Raimoha, Taluka Shirur (Khurd),
district Beed
2. Mangala @ Prerna w/o Sundarrao More,
Age 58 years, Occ. Household,
R/o. Barshi Road, Beed
Taluka and District Beed.
3. Kirantai w/o Arunrao Ingale,
Age 45 years, Occ. Household,
R/o. Rajegaon,
Taluka and District Beed.
4. Vilas s/o Rajaram Badge,
Age 58 years, Occ. Agriculture,
R/o. Beed, Taluka and District Beed
5. Vijaykumar s/o Dattatraya Gandale,
Age 48 years, Occ. Agriculture,
R/o. Ghatnandur, Taluka Ambejogai,
District Beed

... PETITIONERS

versus

1. The State of Maharashtra
Through Police Inspector,
City Police Station, Beed
Taluka and district Beed
2. Yogesh s/o Babasaheb Sanap,
Age 36 years, Occ. Service as
Deputy Manager with Beed
District Central Co-operative Bank
Limited, Beed,
R/o. Balepeer, Nagar Road,
Beed, District Beed

... RESPONDENTS

.....
 Mr. R.S. Deshmukh, advocate for the petitioners
 Mr. S.G. Karlekar, A.P.P. for respondent No.1
 Mr. Joydeep Chatterji, advocate for respondent No.2

WITH

CRIMINAL WRIT PETITION NO. 1060 OF 2013

Jalindhar s/o Malharrao Pisal,
Age Major, Occ. Agriculture
R/o. Khadakpura, Georai,
Taluka Georai, District Beed.

... PETITIONER

versus

1. The State of Maharashtra
Through Police Inspector,
City Police Station, Beed
Taluka and district Beed
2. Yogesh s/o Babasaheb Sanap,
Age 36 years, Occ. Service as
Deputy Manager with Beed
District Central Co-operative Bank
Limited, Beed,
Head Office Rajuri Ves,
Taluka and district Beed

... RESPONDENTS

.....

Mr.N.B. Khandare advocate with Sandeep Deshmukh
advocate for the petitioner
Mr. S.G. Karlekar, A.P.P. for respondent No.1
Mr. Joydeep Chatterji, advocate for respondent No.2

.....

WITH**CRIMINAL APPLICATION NO. 5952 OF 2013**

1. Subhashchandra s/o Mitthulalji Sarda
Age 59 years, Occ. Agri., Business,
and Social worker,
R/o. Kala Hanuman, Beed,
Taluka and district Beed
2. Deelip s/o Jandeo Hambarde,
Age 45 years, Occ. Agriculture,
R/o. Ashti, Taluka Ashti,
District Beed

...APPLICANTS

versus

1. The State of Maharashtra
Through Police Inspector,
City Police Station, Beed
Taluka and district Beed
2. Yogesh s/o Babasaheb Sanap,
Age 36 years, Occ. Service as
Deputy Manager with Beed
District Central Co-operative Bank
Limited, Beed,
R/o. Balepeer, Nagar Road, Beed
Taluka and district Beed

... **RESPONDENTS**

.....

Mr. V.D. Salunke, advocate for the applicants
Mr. S.G. Karlekar, A.P.P. for respondent No.1
Mr. Joydeep Chatterji, advocate for respondent No.2

.....

WITH

CRIMINAL APPLICATION NO. 6007 OF 2013

1. Ramesh s/o Baburao Adaskar @ Deshmukh
Age 42 years, Occ. Agriculture,
R/o. Adas, Taluka Kaij,
District Beed
2. Anil s/o Ramrao Solanke,
Age 47 years, Occ. Agriculture & Lawyer,
R/o. Majalgaon, Taluka Majalgaon,
District Beed

... **APPLICANTS**

versus

1. The State of Maharashtra
Through Police Inspector,
City Police Station, Beed
Taluka and district Beed
2. Yogesh s/o Babasaheb Sanap,
Age 36 years, Occ. Service as
Deputy Manager with Beed
District Central Co-operative Bank
Limited, Beed, R/o Balepeer,
Nagar Road, Beed
Taluka and district Beed

... **RESPONDENTS**

.....
 Mr. Sudarshan J. Salunke, advocate for the applicants
 Mr. S.G. Karlekar, A.P.P. for respondent No.1
 Mr. Joydeep Chatterji, advocate for respondent No.2

WITH

CRIMINAL APPLICATION NO. 6016 OF 2013

1. Sahebrao s/o Nathuji Darekar,
 Age 65 years, Occ. Agriculture,
 R/o. Koyal, Taluka Ashti,
 District Beed **... APPLICANT**

versus

1. The State of Maharashtra
 Through Police Inspector,
 City Police Station, Beed
 Taluka and district Beed
2. Yogesh s/o Babasaheb Sanap,
 Age 36 years, Occ. Service as
 Deputy Manager with Beed
 District Central Co-operative Bank
 Limited, Beed,
 R/o. Balepeer, Nagar Road, Beed
 Taluka and district Beed **... RESPONDENTS**

.....
 Mr. V.D. Salunke, advocate for the applicant
 Mr. S.G. Karlekar, A.P.P. for respondent No.1
 Mr. Joydeep Chatterji, advocate for respondent No.2

WITH

CRIMINAL APPLICATION NO. 6259 OF 2013

1. Dinkar s/o Balwantrao Kadam,
 Age 45 years, Occ. Agriculture
 and Social work,
 R/o. Sawarkar Nagar,
 Asha Talkies Road, Beed
 Taluka and district Beed **... APPLICANT**

versus

1. The State of Maharashtra
Through Police Inspector,
City Police Station, Beed
Taluka and district Beed
2. Yogesh s/o Babasaheb Sanap,
Age 36 years, Occ. Service as
Deputy Manager with Beed
District Central Co-operative Bank
Limited, Beed,
R/o. Balepeer, Nagar Road, Beed
Taluka and district Beed

... **RESPONDENTS**

.....

Mr. V.D. Salunke, advocate for the applicant
Mr. S.G. Karlekar, A.P.P. for respondent No.1
Mr. Joydeep Chatterji Advocate for Respondent No.2.

.....

WITH

CRIMINAL APPLICATION NO. 5970 OF 2013
(FOR INTERVENTION)
IN
CRIMINAL WRIT PETITION NO. 959 OF 2013

Pralhad s/o Sadashiv Gavali,
Age 45 years, Occ. Agriculture,
R/o. Uttamnagar, Majalgaon
Tq. Majalgaon, District Beed

... **APPLICANT**

versus

1. Dhairyasheel s/o Sundarrao Solanke,
Age 57 years, Occ. Agri. and Business,
R/o. 1/5/772, Kranti Nagar,
Behind Collector Office,
Nagar Road, Beed
Taluka and district Beed
2. The State of Maharashtra,
Through Police Inspector,
City Police Station, Beed
District Beed

... **RESPONDENTS**

.....
Mr. Amarjitsing B. Girase, Advocate for the applicant
Mr. R.S. Deshmukh, advocate for respondent No.1
Mr. S.G. Karlekar, A.P.P. for respondent No.2
.....

WITH

**CRIMINAL APPLICATION NO. 5971 OF 2013
(FOR INTERVENTION)
IN
CRIMINAL WRIT PETITION NO. 1028 OF 2013**

Pralhad s/o Sadashiv Gavali,
Age 45 years, Occ. Agriculture,
R/o. Uttamnagar, Majalgaon
Tq. Majalgaon,
District Beed

... APPLICANT

versus

1. Amarsingh Shivajirao Pandit,
Age 50 years, Occ. Agriculture,
R/o. "Shiv-chhatra", Subhash Road,
Beed. Taluka and District Beed
2. The State of Maharashtra,
Through Police Inspector,
City Police Station, Beed
District Beed

... RESPONDENTS

.....
Mr. Amarjitsing B. Girase, Advocate for the applicant
Mr. N.B. Khandare, advocate for respondent No.1
Mr. S.G. Karlekar, A.P.P. for respondent No.2
.....

WITH

CRIMINAL APPLICATION NO. 6527 OF 2013
(FOR INTERVENTION)
IN
CRIMINAL WRIT PETITION NO. 975 OF 2013

1. Dnyanoba s/o Laxmanrao Kamble,
Age 65 years, Occ. Agri. & Business,
R/o. Kailasnagar, Near Morewadi,
Ambejogai, Taluka Ambejogai,
District Beed
2. Arjun s/o Bhaguji Wanve,
Age 61 years, Occ. Agri and Social work
R/o. Sopanwadi, Tq. Ambejogai,
District Beed

... APPLICANTS

versus

1. Ramesh s/o. Shivdas Pokhale,
Age 37 years, Occ. Social work,
R/o. Ganpati Nagar, Beed
Taluka and district Beed
2. The State of Maharashtra,
Through Police Inspector,
City Police Station, Beed
District Beed
3. Yogesh s/o Babasaheb Sanap,
Age 36 years, Occ. Service as
Deputy Manager with Beed
District Central Co-operative Bank
Limited, Beed,
R/o. Balepeer, Nagar Road, Beed
Taluka and district Beed

... RESPONDENTS

.....
Mr. N.L. Jadhav, Advocate for the applicants
Mr. V.D. Sapkal, advocate for respondent No.1
Mr. S.G. Karlekar, A.P.P. for respondent No.2
Mr. Joydeep Chatterji, advocate for respondent No.3
.....

WITH

CRIMINAL APPLICATION NO. 6530 OF 2013
(FOR INTERVENTION)
IN
CRIMINAL WRIT PETITION NO. 959 OF 2013

1. Dnyanoba s/o Laxmanrao Kamble,
Age 65 years, Occ. Agri. & Business,
R/o. Kailasnagar, Near Morewadi,
Ambejogai, Taluka Ambejogai,
District Beed
2. Arjun s/o Bhaguji Wanve,
Age 61 years, Occ. Agri and Social work
R/o. Sopanwadi, Tq. Ambejogai,
District Beed

... APPLICANTS

versus

1. Dhairyasheel s/o Sundarrao Solanke,
Age 57 years, Occ. Agri. and Business,
R/o. 1/5/772, Kranti Nagar,
Behind Collector Office,
Nagar Road, Beed
Taluka and district Beed
2. The State of Maharashtra,
Through Police Inspector,
City Police Station, Beed
District Beed
3. Yogesh s/o Babasaheb Sanap,
Age 36 years, Occ. Service as
Deputy Manager with Beed
District Central Co-operative Bank
Limited, Beed,
R/o. Balepeer, Nagar Road, Beed
Taluka and district Beed

... RESPONDENTS

.....
Mr. N.L. Jadhav, Advocate for the applicants
Mr. R.S. Deshmukh, advocate for respondent No.1
Mr. S.G. Karlekar, A.P.P. for respondent No.2
Mr. Joydeep Chatterji, advocate for respondent No.3
.....

**WITH
CRIMINAL APPLICATION NO. 6601 OF 2013
(FOR INTERVENTION)
IN
CRIMINAL WRIT PETITION NO. 959 OF 2013
and other connected matters.**

Priyadarshani Mahila Nagari Sahakari
Bank Limited, Beed
Through its Chief Executive Officer
Dilip s/o Dashrath Jogdand,
Age 43 years,
R/o. Chausala, Tq. And district Beed **... APPLICANT**

versus

1. The State of Maharashtra,
 Through Police Inspector,
 City Police Station, Beed
 District Beed
2. Dhairyasheel Sundarrao Solanke,
3. Dinkar Balwantrao Kadam
4. Madhukar Pandurang Dhakne,
5. Amarsingh shivajirao Pandit,
6. Jalindhar Malharrao Pisal,
7. Ashok Vishwanath Palave,
8. Latabai Vasant Sanap,
9. Ramesh Shivdas Pokale,
10. Ramesh Baburao Adaskar & Deshmukh,
11. Subhashchandra Mitthulalji Sarda
12. Sahebrao Nathuji Ddarekar
13. Vilas Dattatraya Sonawane, **... RESPONDENTS**

.....
Mr. Milind Patil, Advocate for the applicant
Mr. S.G. Karlekar, A.P.P. for respondent No.1
Respective advocate for respondent Nos. 2 to 13.
.....

**CORAM : NARESH H. PATIL AND
M. T. JOSHI, JJ.**

DATE OF RESERVING THE ORDER: 20TH DECEMBER, 2013

DATE OF PRONOUNCING THE ORDER: 24TH DECEMBER, 2013

ORDER (PER NARESH H. PATIL, J.):

1. Petitioners/Applicants have filed these Petitions under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, praying for quashing and setting aside the First Information Report registered at Crime No.140 of 2013, on 2nd October 2013, with City Police Station, Beed, Dist-Beed for the offences punishable under Section 420, 406 read with 34 of the Indian Penal Code.

2. These Petitions/Applications are decided by this common order.

3. The Petitioners were Directors of Beed District Central

Co-operative Bank Limited, Beed (for short "the said Bank"). By an order dated 11th November, 2011 the State of Maharashtra dissolved the elected Board of Directors and appointed a five members administrative committee which was reconstituted as four members administrative committee. The said committee has been looking after the administration of the said Bank since then. It is alleged that the said committee scrutinized the decisions taken by the elected Board of Directors during the period 2008 to 2011. They noticed that (A) the said Bank did not maintain C.R.R. (Cash Reserve Ratio) and S.L.R. (Statutory Liquidity Ratio) properly, for which the Reserve Bank of India had imposed fine of Rs.1.08 Crores and 15.14 Crores on the Bank, (B) The Bank during the period from 2008-2009 and 2009-2010 had shown profit in violation of the rules, therefore the income tax department charged tax for Rs.20.19 Crores, (C) Audit of the Bank for the year 2010-11 was conducted by Mrs. Kankiya and Mehta, Government Auditor, Ahmednagar. In the report of the auditors, serious deficiencies were noticed including corruption, mismanagement, irregularities etc. (D) The Bank had suffered huge financial losses due to the functioning of the Board of Directors, (E) The Bank flouted the provisions of the Maharashtra Co-operative Societies Act, 1960 (for short "the Act of 1960) and the rules framed thereunder, guidelines issued by Reserve Bank of India and NABARD. The Board of Directors acted against the interest of the Bank,

therefore the administrative committee decided, by resolution, to lodge complaint against the Board of Directors, with police. The complainant Yogesh Babasaheb Sanap, the Deputy Manager of the said Bank/ Member of the said administrative committee, filed complaint addressed to the Police Inspector, Police Station, Beed, on 2nd October, 2013. The complainant mentioned six cases of transactions wherein the Directors Board had sanctioned loan. The details of said six transactions are as under:

Sr. No.	Name of the Society to whom loan sanctioned	Sanctioned Loan	Amount to be Recovered (Rupees in Lakhs)
1	Aaditya Bahuuddeshiya Sanstha, Beed	300.00	277.07
2	Shrimati Mallawabai Walyal Memorable Charitable Dental Hospital and Research Center, Solapur	500.00	280.71
3	Vyankateshwara Agro Sugar Products Pvt. Ltd. Shivani (Jamga) Tq-Loha, Dist-Nanded	1000.00	881.19
4	Jaibhavani Sahakari Sakhar Karkhana Ltd. Shivajinagar, Jaibhavani Gadhi	1457.00	1712.84
5	Gajanan Sahakari Sakhar Karkhana Ltd. Rajuri (N)	600.00	323.09
6	Khand Audyogik Bahuuddeshiya Gramin Sahakari Sanstha Maryadit Ambajogai	16.20	61.39

4. It is alleged that the loan sanctioned in six cases was

illegally sanctioned to which the elected Directors Board was responsible, as observed in the audit report. The complainant stated that these Directors committed criminal offence. During the period from 2008 to 2011, 24 Directors acted in a manner causing financial loss to the tune of Rs.3538.11 Lakhs. Their names were mentioned in the complaint.

5. The Petitioners placed on record various documents for submitting that the complaint lodged against them is misconceived, false and defective.

6. Affidavit in reply has been filed by the complainant Yogesh Babasaheb Sanap, Deputy Manager. Broadly, the complainant submitted that the loan was sanctioned in the six cases wherein some of the Directors had political considerations apart from the allegation of bypassing the mandatory rules, norms, guidelines while functioning as Board of Directors. The deponent submitted that due to action of the Petitioners, they have caused wrongful loss to the Respondent Bank. It shows dishonest intention on the part of the Directors in sanctioning the loans. By their acts, the Directors can be said to have earned undue political and financial gain, according to the deponent.

7. We may refer to the submissions of each of the learned counsel appearing for the Petitioners.

CRIMINAL APPLICATION NO. 1028 OF 2013

8. Learned counsel Shri. Khandare appearing for the Petitioner Amarsingh s/o Shivajirao Pandit, submitted that the subject meetings wherein loan was sanctioned, out of 16 directors, 14 were present and the loan was disbursed after obtaining security. The Directors have powers to sanction loan under the banking laws, norms and guidelines. In case the administrative committee or the complainant finds fault with the disbursement of the loan, then necessary steps could be taken in accordance with the provisions of the Act of 1960. The learned counsel referred to the provisions of Section 81, 88, 146, 147, 148 of the Act of 1960, which provides for the penal action against the erring Directors. It was submitted that on its face, the allegations in the impugned complaint make out a case of civil nature, therefore, registration of complaint for offences punishable under the provisions of Indian Penal Code is not maintainable. As Directors were discharging their duties, which amounts to transacting business of bank, the filing of the criminal complaint of this nature is unwarranted and illegal.

9. Shri. Khandare, learned counsel referred to inspection report of National Bank For Agriculture and Rural Development (NABARD), in respect of financial position of the Beed District Central Cooperative Bank Ltd., Beed, as on 31st March, 2011. We have perused the same.

CRIMINAL WRIT PETITION NO.1013 OF 2013

10. Shri. Khandare, learned counsel appearing for Petitioner - Vilas Dattatraya Sonawane adopted the legal arguments in respect of maintainability of the complaint, as advanced in earlier Petition. The learned counsel referred to the provisions of Section 73(1AB) of the Act of 1960. It was submitted that the Petitioner objected to the disbursement of the loan.

CRIMINAL WRIT PETITION NO.1060 OF 2013

11. Shri. Sandeep Deshmukh, learned counsel appearing for Petitioner - Vilas Dattatraya Sonawane adopted the legal arguments in respect of maintainability of the complaint, as advanced in earlier Petition.

CRIMINAL WRIT PETITION NO. 975 OF 2013

12. Learned counsel Shri. V.D. Sapkal appearing for

Petitioner - Ramesh Shivdas Pokale, submitted that legal arguments in respect of maintainability of the complaint are adopted, as advanced in the earlier Petition. The counsel submitted that the provisions of Section 420, 406 of the Indian Penal Code, in the facts of the case, are not at all applicable. The Petitioner was absent in the meeting of the Board of Directors held on 11th June, 2010. Appropriate security was obtained for the loan sanctioned by the Board of Directors. Reference was made to the provisions of Section 73(1AB) of the Act of 1960. Loan committee constituted under the provisions of law was responsible for recommending and taking decision for disbursement of loan. Therefore, the Directors cannot be held directly responsible for disbursement of loan.

CRIMINAL WRIT PETITION NOS. 1032 OF 2013 & 1038 OF 2013:

13. Shri. Karad, learned counsel appearing for Petitioners-Madhukar Pandurang Dhakne and Ashok Vishwanath Palave, submitted that legal arguments in respect of maintainability of the complaint are adopted, as advanced in the earlier Petition. The Petitioner in Writ Petition No.1038 of 2013 – Ashok Vishwanath Palave, is a chartered accountant and an expert Director. He was elected in that capacity, therefore, the general allegations made against the other Directors of having political considerations and other considerations of favouritism in disbursement of loan cannot be made applicable to the said Petitioner. He was absent through out, in any of the board meeting. Reliance was placed on the provisions of Section 73 (1)(A)(B) of the Act of 1960. The Petitioner was

not member of executive committee responsible for sanctioning of loan. In respect of Petitioner in Writ Petition No.1032 of 2013 – Madhukar Pandurang Dhakane, it was submitted that he was elected as an expert Member (Agriculturist). He was not present in the meeting. Though it was pointed out that he had accepted Bhatta for the subject meeting but he did not attend the said meeting.

CRIMINAL APPLICATION NOS. 5952 OF 2013, 6016 OF 2013 AND 6259 OF 2013:

14. Shri. V.D. Salunke, learned counsel appearing for the Petitioners, adopted the legal arguments in respect of maintainability of the complaint, as advanced in earlier Petition. It was submitted by the learned counsel that the Petitioners in these Petitions were present in the meetings. The first information report does not disclose any cognizable offence of criminal nature. At the most, it reflects transactions of civil nature covered by the banking rules and regulations. The impugned first information report is filed due to political consideration. The learned counsel raised issue in respect of locus and competency of the complainant to file such complaint. Reference was made to the provisions of the Act of 1960. It is submitted that adequate remedy is provided under the provisions of Co-operative Law which would cover the allegations made in the complaint. The Maharashtra Co-operative Societies Act, 1960, being complete code, filing of complaint for the offences punishable under the provisions of Indian Penal Code, is unwarranted and is not

permissible. The learned counsel submits that the administrative committee constituted by the Government was not legally constituted. Learned counsel has referred to certain documents to point out that out of four members of the administrative committee, three members have, in writing, communicated that no such resolution was passed to file complaint against said Directors. Reference was made to the case law, which would be dealt with at a later stage.

CRIMINAL WRIT PETITION NO.1054 OF 2013

15. Shri. R.S. Deshmukh, learned counsel appearing for Petitioners, submitted that Petitioner Nos.1 to 3 were elected women Directors at the relevant time. The learned counsel has adopted the argument advanced in respect of maintainability of the complaint in law. The counsel submitted that the Directors were present in the meetings. Disbursement of loan is business of society and therefore filing of a complaint challenging decision to disburse loan, cannot be a subject matter for the investigation under the provisions of Indian Penal Code. The Maharashtra Co-operative Societies Act, 1960, provides adequate remedies to the complainant which ought to have been resorted to. Learned counsel submits that the proceedings initiated under Section 88 of the Act of 1960, are going on. The complaint is politically motivated. The complainant has no locus standi to file complaint.

CRIMINAL WRIT PETITION NO.959 OF 2013:

16. Shri. R.S. Deshmukh, learned counsel appearing for Petitioner - Dhairyasheel Sundarrao Solanke, submitted that the case of the Petitioner is unique in the sense that he had protested against the disbursement of loan. He had even approached the authorities and filed complaint to the police in that regard. The Petitioner was not present in some of the meetings. Reliance was placed on various documents by the learned counsel in support of the said submissions including the affidavit at page no.141 of the paper book.

CRIMINAL APPLICATION NO.6007 OF 2013

17. The learned counsel Shri. S.J. Salunke appearing for the Petitioners - Ramesh Baburao Adaskar @ Deshmukh and Anil Ramrao Solanke, submitted that the Petitioners were present in the meeting while two proposals for disbursement of loan were sanctioned. It was submitted that they did not attend meetings of executive committee/loan committee which sanctions the loan. The Petitioners protested regarding the manner in which the Board of Directors was functioning in sanctioning loan, inspite of the same complainant has filed complaint against these Directors.

18. Shri. Karlekar, learned A.P.P. appearing for State submitted that the Board of Directors had, during the relevant period,

failed to maintain S.L.R. (Statutory Liquidity Ratio) and C.R.R. (Cash Reserve Ratio), due to which Bank suffered losses. The loan was sanctioned inspite of the negative endorsement made by the responsible officers of the Bank. The Reserve Bank of India had to impose penalty due to the conduct of the Board of Directors in sanctioning proposals of huge amount. The Board of Directors acted with dishonest intention which would amount, in the facts of the case, cheating the Bank and committing criminal breach of trust. The learned A.P.P. submitted that auditors report reveals that none of the proposal was recommended by the officers of the Bank who were responsible to make endorsement. In spite of the same, Board of Directors in flagrant violation of the rules, regulations and guidelines, had sanctioned the loan proposals. The proposals were not properly scanned. The securities furnished by the applicants who applied for loan, were not properly valued. The loan documents were incomplete, still the Board of Directors went ahead and sanctioned the loan amount. The learned A.P.P. submits that Board of Directors committed serious irregularities. In fact sanctioning of loan is a fake exercise, according to the A.P.P., with ulterior motives, hidden intentions, full of political considerations and other considerations, attracting penal consequences. In respect of the legal issues raised, the A.P.P. submitted that provisions of Section 146 of the Maharashtra Co-operative Societies Act, 1960, are not applicable in the facts of the case. In some of the cases, proposals

filed by the Applicants were rejected by the Apex Bank of the State, still the Board of Directors sanctioned the proposals.

19. In respect of Mr. Dhairyasheel Sundarrao Solanke, Petitioner in Writ Petition No.959 of 2013, the learned A.P.P. submitted that the Reserve Bank of India imposed penalty of Rs.16 Crores on the Bank. The Director failed to protect the interest of the Bank.

20. The learned A.P.P. submitted that the professional Directors from the field of chartered accountancy and agricultural field had voting rights. In some of the meetings they were present and even if in some of the meetings some of the Directors claims to be not present, but that by itself is no ground to claim ignorance of the decision taken by the Board of Directors and the administration of the Bank.

21. The learned A.P.P. further submitted that on the issue of locus and competency of the complainant to file first information report, that in a meeting held on 27th September 2013, the administrative committee resolved and authorized the complainant to file present complaint. The letters, on which reliance is placed by the Petitioners alleging that some of the committee members have signed the same, according to the learned A.P.P. have to be simply ignored.

22. The learned A.P.P. Placed reliance on the provisions of Section 418 of the Indian Penal Code and he submitted, on instructions of

the Investigating Officer who is present in the Court, that the investigation will be completed within THREE MONTHS. The learned A.P.P. referred to the case-laws which would be referred by us at a later stage.

23. Shri. Chatterji, learned counsel appearing for Respondent Bank submitted that the arguments advanced on behalf of the State on law points and on facts are adopted by him. It was submitted that the locus or competency of the complainant cannot be questioned at this stage, as anyone can set the criminal law in motion. Reliance was placed on the resolution passed by the administrative committee which authorizes the complainant to file the impugned complaint.

24. Shri. Girase, learned counsel appearing for Intervenor, submitted that the Directors Board committed serious illegalities, irregularities, due to which the Bank has suffered huge monetary loss and the Bank is yet to recover an amount of Rs.1000 Crores. Around 75 criminal complaints are filed against various persons, Directors, members of societies, who, according to the committee, were responsible for the present condition of the Bank. The learned counsel submitted that ordinary, poor depositors are facing hardship due to dishonest functioning of the Board of Directors, which has brought the Bank in huge financial debt and losses. A wrong message would go, in case this Court in exercise of its writ jurisdiction or inherent powers quashes the complaints at this stage. The investigation is going on and therefore it would not be appropriate to decide the fate of the complaint at this stage, according to

the learned counsel.

25. We have even heard the submissions of learned counsel Shri. N.L. Jadhav and Shri. Milind Patil, appearing for the intervenors.

26. We have heard the learned counsel appearing for the respective parties at sufficient length. We find it appropriate to refer to the Judgment of the Apex Court dealing with the issue in respect of the jurisdiction of this Court while dealing with Petitions filed under Article 226 of the Constitution of India or under Section 482 of the Code of Criminal Procedure, for quashing of the first information report. We may refer to the Reported Judgment in the case of **Rajiv Thapar and others vs. Madan Lal Kapoor, (2013) 3 Supreme Court Cases, 330**. The Apex Court observed in Para 28 as under:

“28. The High Court, in exercise of its jurisdiction under Section 482 of the Cr.P.C., must make a just and rightful choice. This is not a stage of evaluating the truthfulness or otherwise of allegations levelled by the prosecution/complainant against the accused. Likewise, it is not a stage for determining how weighty the defences raised on behalf of the accused is. Even if the accused is successful in showing some suspicion or doubt, in the allegations levelled by the prosecution/complainant, it would be impermissible to discharge the accused before

trial. This is so, because it would result in giving finality to the accusations levelled by the prosecution/complainant, without allowing the prosecution or the complainant to adduce evidence to substantiate the same. The converse is, however, not true, because even if trial is proceeded with, the accused is not subjected to any irreparable consequences. The accused would still be in a position to succeed, by establishing his defences by producing evidence in accordance with law. There is an endless list of judgments rendered by this Court declaring the legal position, that in a case where the prosecution/complainant has levelled allegations bringing out all ingredients of the charge(s) levelled, and have placed material before the Court, prima facie evidencing the truthfulness of the allegations levelled, trial must be held."

27. We may refer to the recent Judgment of 2013 delivered by the Apex Court in the case of **Umesh Kumar vs. State of Andhra Pradesh, 2013 A.I.R. S.C.W. 6062.**

28. Shri. Khandare, learned counsel appearing for the Petitioners cited catena of Judgments. We are referring to some of the relevant cases. Shri. Khandare, learned counsel referred to the Judgment delivered by the Division Bench of the Bombay High Court, Nagpur Bench, in the case of **Yashapal Nathuram Janwani and others vs. State of Maharashtra and**

another, 2013 ALL M.R.(Cri.) 3794. In the facts of the said case, the Division Bench observed, in Para 6, as under:

"6. Further more, the grievance as sought to be made in the complaints filed by the non-applicant No.2 before the learned Magistrate is a matter, which falls within the purview of the provisions of the Maharashtra Cooperative Societies Act, 1960. It need not be said that the Maharashtra Cooperative Societies Act 1960 is a complete Code in itself and the remedies are available to the non-applicant No.2 under the said Act to agitate his grievance, if any. The filing of the criminal complaints is nothing but an abuse of process of law and, therefore, they have to be quashed. The impugned orders passed by the learned Magistrate are not only without application of mind, but also illegal and unsustainable in law. Consequently registration of first information report is also unsustainable in law and they also have to be quashed".

29. Shri. Khandare, learned counsel appearing for the Petitioners referred to the Judgment in the case of **Mahesh Shivram Puthran vs. Commissioner of Police and others, 2011(3) Bom. C.R.(Crim.) 526.** In the facts of the said case, it was observed that going by the scheme of the provisions of the Maharashtra Regional and Town Planning Act, 1966, suo motu registration of F.I.R. by the local police for offences punishable under

the provisions of the said Act is not contemplated at all.

30. Shri. Khandare, learned counsel referred to the Judgment in the case of **Jeewan Kumar Raut and another vs. Central Bureau of Investigation, (2009) 7 Supreme Court Cases 526**. The Apex Court observed in Para 26 as under:

"26. It is a well-settled principle of law that if a special statute lays down procedures, the ones laid down under the general statutes shall not be followed. In a situation of this nature, the respondent could carry out investigations in exercise of its authorization under Section 13(3) (iv) of TOHO. While doing so, it could exercise such powers which are otherwise vested in it. But, as it could not file a police report but a complaint petition only; sub-section (2) of Section 167 of the Code may not be applicable."

31. Shri. Khandare, learned counsel further referred to the Judgment in the case of **Nanda d/o Yadavrao Shankhpale vs. State of Maharashtra and others, 2008(1) Mh. L.J. 581**. The Division Bench of this Court, in Para 25, observed as under:

"25. Judicial discipline is self-discipline. It is an inbuilt mechanism in the system itself. Judicial discipline demands that when the decision of a co-ordinate Bench of the same High Court is

brought to the notice of the Bench, it is to be respected and is binding, subject of course, to the right to take a different view or to doubt the correctness of the decision and the permissible course then open is to refer the question or the case to a larger Bench. We are in agreement with the view adopted by the earlier Division Bench in deciding Writ petition No. 912 of 1988 and directing reconsideration of the caste claim of petitioner Madhav.”

32. Shri. Khandare, learned counsel also referred to the Judgment in the case of **Chandran Ratnaswami vs. K.C. Palanisamy and others, (2013) 6 Supreme Court Cases, 740**. In Para 41 and 42 of the Judgment, the Apex Court observed as under:

"41. This Court in Zandu Pharmaceutical Works Ltd. And others vs. Mohd. Sharaful Haque observed thus: (SCC p. 128, para 8)

"8. ... It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers, court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is

sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.”

"42. In Indian Oil Corporation vs. NEPS India Ltd. this Court again cautioned about a growing tendency in business circles to convert purely civil disputes into criminal cases. The Court noticed the prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. The Court further observed that: (SCC p. 749, para 13)

“13. ... Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.”.....”

33. Shri. Khandare, learned counsel referred to the Judgment in the case of **Dalip Kaur and others vs. Jagnar Singh and another, (2009) 14 Supreme Court Cases, 696**. The Apex Court observed in Para 10 of the Judgment, as under:

"10. The High Court, therefore, should have posed a question as to whether any act of inducement on the part of the appellant has been raised by the second respondent and whether the appellant had an intention to cheat him from the

very inception. If the dispute between the parties was essentially a civil dispute resulting from a breach of contract on the part of the appellants by non-refunding the amount of advance the same would not constitute an offence of cheating. Similar is the legal position in respect of an offence of criminal breach of trust having regard to its definition contained in Section 405 of the Penal Code (see *Ajay Mitra vs. State of M.P.*)."

34. Shri. V.D. Salunke, learned counsel appearing for the Petitioners, in respect of the issue of authority to file complaint, placed reliance on the reported Judgment in the case of **VPK Urban Co-operative Credit Socceity Ltd. vs. Shri. Shaikh Ruenoddin Mohammed and another, 2010 All M.R.(Cri.) 1085**. Shri. V.D. Salunke, learned counsel also referred to the reported Judgments in the case of : (i) **Ashok Bampto Pagui vs. Agencia Real Canacona Pvt. Ltd., 2007, Cri. L. J. 4645**, (ii) **Preeti Gupta & Anr vs. State of Jharkhand and Another., AIR 2010 SC 3363** , (iii) **Venture Global Engineering vs. Satyam Computer Services Ltd. & Another, 2010 SC 3371**.

35. Shri. Karlekar, learned A.P.P. appearing for the State, referred to the Judgment in the case of **M/s. Medchl Chemicals and Pharma Pvt Ltd. vs. M/s Biological E. Ltd. and others, A.I.R. 2000 S.C., 1869**. The Apex Court observed in Para 16 and 17 as under:

"16. Be it noted that in the matter of exercise of High Courts inherent power, the only requirement is to see whether continuance of the proceeding would be a total abuse of the process of Court. The Criminal Procedure Code contains a detailed procedure for investigation, charge and trial, and in the event, the High Court is desirous of putting a stop to the known procedure of law, the High Court must use a proper circumspection and as noticed above, very great care and caution to quash the complaint in exercise of its inherent jurisdiction. Recently, this Court in ***Trisuns Chemical Industry v. Rajesh Agarwal*** (1999 (5) SCALE 609 : (1999 AIR SCW 3492 : AIR 1999 SC 3499 : Cri.L.J. 4325) observed (para 4 to 7 of AIR SCW, AIR and Cri. L.J.) :

"5. Respondent's counsel in the High Court put forward mainly two contentions. First was that the dispute is purely of a civil nature and hence no prosecution should have been permitted, and the second was that the Judicial Magistrate of First Class, Gandhidham has no jurisdiction to entertain the complaint. Learned Single Judge has approved both the contentions and quashed the complaint and the order passed by the magistrate thereon.

6. On the first count learned Single Judge pointed out that there was a specific clause in the Memorandum of Understanding arrived between the parties that disputes, if any, arising between them in

respect of any transaction be resolved through arbitration. High Court made the following observations:

“Besides supplies of processed soyabean were received by the complainant company without any objection and the same have been exported by the complainant-company. The question whether the complainant-company did suffer the loss as alleged by it are the matters to be adjudicated by the Civil Court and cannot be the subject matter of criminal prosecution.”

7. Time and again this Court has been pointing out that the quashment of FIR or a complaint in exercise of inherent powers of the High Court should be limited to very extreme exceptions vide *State of Haryana v. Bhajan Lal* (1992 Suppl. (1) SCC 335 : (1992 AIR SCW 237 : AIR 1992 SC 604 : 1992 Cri.L.J. 527) and *Rajesh Bajaj v. State of NCT of Delhi*, (1999) 3 SCC 259 : (1999 AIR SCW 881 : AIR 1999 SC 1216 : 1999 Cri L.J 1833).

8. In the last referred case this court also pointed out that merely because an act has a civil profile is not sufficient to denude it of its criminal outfit. We quote the following observations:

“It may be that the facts narrated in the present complaint would as well reveal a commercial transaction or money transaction. But that is hardly a

reason for holding that the offence of cheating would elude from such a transaction. In fact, many a cheatings were committed in the course of commercial and also money transactions."

9. We are unable to appreciate the reasoning that the provision incorporated in the agreement for referring the disputes to arbitration is an effective substitute for a criminal prosecution when the disputed act is an offence. Arbitration is a remedy for affording reliefs to the party affected by breach of the agreement but the arbitrator cannot conduct a trial of any act which amounted to an offence albeit the same act may be connected with the discharge of any function under the agreement. Hence, those are not good reasons for the High Court to axe down the complaint at the threshold itself. The investigating agency should have had the freedom to go into the whole gamut of the allegations and to reach a conclusion of its own. Pre-emption of such investigation would be justified only in very extreme cases as indicated in *State of Haryana v. Bhajan Lal* (Supra)."

"17. On careful reading of the complaint, in our view, it cannot be said that the complaint does not disclose the commission of an offence. The ingredients of the offences under Sections 415, 418 and 420 cannot be said to be totally absent on the basis of the allegations in the complaint. We, however, hasten to add that whether or not the allegations in the complaint are otherwise correct has to be decided on the basis of the evidence to be led

at the trial in the complaint case but simply because of the fact that there is a remedy provided for breach of contract, that does not by itself clothe the Court to come to a conclusion that civil remedy is the only remedy available to the appellant herein. Both criminal law and civil law remedy can be pursued in divers situations. As a matter of fact they are not mutually exclusive but clearly co-extensive and essentially differ in their content and consequence. The object of criminal law is to punish an offender who commits an offence against a person, property or the State for which the accused, on proof of the offence, is deprived of his liberty and in some cases even his life. This does not, however, affect civil remedies at all for suing the wrongdoer in cases like arson, accidents etc. It is anathema to suppose that when a civil remedy is available, a criminal prosecution is completely barred. The two types of actions are quite different in content, scope and impart" (vide *Pratibha Rani v Suraj Kumar* (AIR 1985 SC 628 : 1985 Cri L.J. 817) (supra)."

36. Shri. Karlekar, learned A.P.P. referred to the Judgment of the Apex Court in the case of **Central Bureau of Investigation vs. Jagjit Singh**, delivered on 1st October, 2013. The Apex Court, in Para 15 of the Judgment, observed as under:

"15. The debt which was due to the Bank was recovered by the Bank pursuant to an order passed by Debts Recovery Tribunal. Therefore, it cannot be said that there is a compromise

between the offender and the victim. The offences when committed in relation with Banking activities including offences under Sections 420/471 IPC have harmful effect on the public and threaten the well being of the society. These offences fall under the category of offences involving moral turpitude committed by public servants while working in that capacity. Prima facie, one may state that the bank as the victim in such cases but, in fact, the society in general, including customers of the Bank is the sufferer. In the present case, there was neither an allegation regarding any abuse of process of any Court nor anything on record to suggest that the offenders were entitled to secure the order in the ends of justice.

In the instant case, the High Court has not considered the above factors while passing the impugned order. Hence, we are of the opinion that the High Court erred in addressing the issue in right perspective.”

37. Shri. Karlekar, learned A.P.P. also referred reported Judgment of Supreme Court in the case of **Rama Rao vs. Narayan** **1969 AIR (SC) 724**.

38. Shri. Girase, learned counsel appearing for Intervenor, in respect of quashing of first information report and powers of High Court under Article 226 of the Constitution of India and under Section 482 of the

Code of Criminal Procedure, referred to the Judgment in the case of **C.P. Subhash vs. Inspector of Police Chennai and others, 2013 DGLS(Cri.) Soft 104.**

39. Shri. Girase, learned counsel referred to the Judgment of the learned Single Judge of this Court (**CORAM: R.Y. GANOO, J.**), dated 28th November, 2011, in respect of group of Applications, bearing Criminal Application No.3919 of 2011 and other companion matters, rejecting Applications for bail. It was submitted that Petitions for Special Leave to Appeal (Crl) Nos. 9557-9560 of 2011 were filed by the Applicants/Directors of the Respondent Bank against the said order to the Supreme Court, which came to be dismissed on 13th December, 2011.

40. Shri. Girase, learned counsel referred to the order passed by the learned Single Judge of this Court (**CORAM: M.T. JOSHI, J.**) in Criminal Application No.4417 of 2013 (Rajabhau s/o Raghunath Munde vs. The State of Maharashtra), dated 8th October, 2013, wherein the Criminal Application was dismissed.

41. Shri. Girase, learned counsel further referred to the orders passed in respect of other Directors of the said Bank in the Applications praying for anticipatory bail.

42. The Petitioners raised issue in respect of the competency of the complainant to file complaint. The very constitution and

continuation of the Committee by the Government was also objected by referring to the provisions of the Act of 1960. But we have seen in the record that resolution was passed by the administrative committee to file a criminal complaint and based on the same, the complainant filed the impugned first information report and set the criminal law in motion. The settled position of law as propounded by the learned counsel appearing for the Bank is that anybody can set the criminal law in motion. Therefore, at this stage, it would not be proper to go into the issues relating to the locus of the complainant or the competency of the administrative committee to continue in the office and to take decisions on administrative side or for initiating enquiries, prosecutions etc.

43. In case of some of the directors, learned counsel submitted that they did not attend some of the meetings or any meeting of the loan committee/executive committee which decides the loan proposals. The Petitioners referred to voluminous record placed before us to point out their presence or absence in the meeting held wherein loan proposals were decided. Prima facie, after considering the entire record and the issue, we are of the view that, at this stage, considering the nature of complaint, the issue of their presence or absence in the relevant meetings could not be of paramount consideration to decide as to whether it could be conclusively held that

they had nothing to do with the sanctioning of the loan proposals or the administration of the affairs of the Bank. There is substance in the submissions of the Respondents that the complaint is an information to police in respect of the six cases specifically perused by the committee, on the basis of record and the auditor's report. The police must be given free hand to investigate as to whether there is any element of criminality and intention to cheat and commit breach of trust imposed in the Board of Directors by the people who got them elected to govern the affairs of the Bank. While investigating a complaint of this nature, it was submitted that, the investigating agency is bound to look into various aspects and in the process, may add other provisions of law or delete some of the provisions of law while filing final report. This submission is based on the proposition that one cannot expect the first information report to be an encyclopedia of the grievances of the complainant. It was submitted by the learned counsel appearing for the Respondents that the issue has to be seen in the larger perspective involving the trust of the people in the banking business and the transactions. Several instances were cited wherein depositors are said to be finding difficulties in getting back their money, apart from the other instances wherein the statutory bodies like Reserve Bank of India, the Income Tax Authorities, raised serious questions regarding functioning of the Board of Directors and have gone to the extent of levying penalties on the Bank.

44. At the same time, submissions advanced by the learned counsel appearing for the Petitioners, raises issue based on the Bank record, necessary prima facie evidence and sufficiency of the same for showing complicity of these Petitioners in the alleged offence. In the other words, the counsel submitted that reading of the complaint as it is, does not disclose any cognizable offence committed by the Petitioners.

45. Considering the complex nature of the entire episode, the history of past few years concerning the functioning of the Bank and resultant filing of around seventy five criminal complaints and enquiry under Section 88 of the Maharashtra Co-operative Societies Act, 1960, prima facie we are of the view that at this stage, it would not be appropriate to reach out to a conclusion of innocence or otherwise of any alleged intention in the functioning of the Directors while the files for loan proposals were cleared.

46. It was submitted by the learned counsel appearing for the Petitioners that the Maharashtra Co-operative Societies Act, 1960, being a complete code in itself, proceedings initiated under Indian Penal Code are not sustainable. This issue would be required to be considered in the facts of each case, considering the peculiarity and

the nature of allegations made in the complaint and the material collected by the investigating agency. We had seen the files maintained by the Investigating Officer and we find that the investigation is still under progress, on the issue so as to ascertain as to whether element of cheating or criminal breach of trust in the functioning of the Board of Directors is involved or not. The functioning of the Directors Board and the decision taken by the Board on the whole as such is questioned and the investigating agency is looking into the same. Picking up isolated cases of Directors based on their pleas raised before us, under writ jurisdiction and inherent jurisdiction of this Court, in the peculiar facts of this case, would not be appropriate way to deal with the matter at this stage. The investigating agency must be given some reasonable time to reach out to final conclusion.

47. The learned counsel appearing for Respondents submitted that some of the Directors are very highly influential persons in society and in life. It is submitted that they are politically and financially powerful and the Investigating Officer is not getting sufficient co-operation and assistance in investigating the cases. We are informed that various complaints are filed in respective police stations of Beed District and different investigating officers are dealing with these respective complaints. Be that as it may. We do not propose to

observe anything on the same at this stage.

48. Learned counsel appearing for the Petitioners submitted that it is not that the loan sanctioned would not be recovered at all. In one case, it was submitted that the parties entered into compromise before the Civil Court for arranging installments and in some other cases, installments are re-scheduled and loan amount is to be repaid in coming 2-3 years. Thus, according to the counsel for Petitioners, the loan amount disbursed, could be recovered. These issues also would be looked into by the investigating agency. Therefore, at this stage, it is premature to make any observations of the sufficiency or otherwise of the material for quashing the first information report, as prayed by the Petitioners.

49. There are adequate remedies in law in case the prosecution decides to file charge-sheet. The statutory remedies could be availed of by the Petitioners as and when the cause of action arises. Meaning thereby that the Petitioners are not remedy-less.

50. For the reasons stated above, we are not inclined to exercise our writ jurisdiction under Article 226 of the Constitution of India or inherent jurisdiction conferred under Section 482 of the Code of Criminal Procedure, to quash the complaint or first information

report. The Writ Petitions/Applications seeking quashment of complaint/first information report, stand dismissed. It is clarified that observations made by us in the order, are prima facie in nature.

51. In the light of the order passed above, Applications for intervention stand disposed of.

[M. T. JOSHI, J.]

[NARESH H. PATIL, J.]

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