

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Writ Petition No.205 of 2015

Laxman Hiralal Kadam.

.. Petitioner.

Versus

Kalpesh Ambalal Patel
And Others.

.. Respondents.

Shri. Sharad V. Natu, Advocate, for petitioner.

Shri. S.A. Ambad, Additional Public Prosecutor, for
respondent No.12.

CORAM: T.V. NALAWADE, J.

DATE : 26th JUNE 2015

ORDER:

1) The petition is filed to challenge the order made on Exhibit 100 in RCC No.25/2010 by the learned Judicial Magistrate, First Class, Shahada. It is a private case filed by the present petitioner for offences punishable under sections 403, 406, 408, 409, 465, 467, 468, 471, 477-A, 420 etc. read with 34 and section 120B of the Indian Penal Code and process has been issued against some persons who had floated a milk society and also against the persons who were involved in the

management. It is the case of the complainant that he was deceived by these persons by creating false record and even his property was shown as security for the loan taken in the name of the society and that amount has been misappropriated.

2) On the other hand Crime No.197/2001 was registered against the accused persons from the private complaint and also against the petitioner and in the said crime charge sheet is filed against the petitioner and other accused involved in floating of the milk society and also taking loan from financial corporation. The case is filed for offence punishable under sections 465, 471, 477-A etc. of the Indian Penal Code. There are allegations that the petitioner was also party to the fraud.

3) It appears that in view of the aforesaid circumstances the learned Sessions Judge had ordered to bring the two cases in one Court and had directed to decide both the matters together as two matters need to be decided together though may be one after the other. In view of the peculiar circumstances it may not be possible

to use section 210 of the Cr.P.C. and both the cases need to be dealt with separately. It appears that in view of these circumstances and the fact that in one revision filed in police case by one of the accused the Sessions Court has stayed the proceeding of the police case, present petitioner had filed application to stay the hearing of his private complaint also. It appears that learned Judicial Magistrate has refused to stay the proceeding and the application is rejected. In view of these circumstances this Court has no hesitation to hold that both the cases need to be heard by the same Judge and they need to be decided by the same Judge they may be after hearing the cases one after the other.

4) In the result, the petition allowed. The order made by the learned Judicial Magistrate on Exhibit 100 is hereby set aside and the application filed at Exhibit 100 in RCC No. 25/2010 is allowed.

Sd/-
(T.V. NALAWADE, J.)

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