

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
BENCH AT AURANGABAD.  
APPELLATE SIDE JURISDICTION

**CRIMINAL WRIT PETITION NO.:503 OF 2015**

Sandesh Mishiralal Chopada and another  
VERSUS  
The State Of Maharashtra and another

...

Mrs. Rashmi S. Kulkarni, Advocate for the Petitioners.  
Mr. M. M. Nerlikar, A.P.P. for Respondent No.1.

...

CORAM : **A. B. CHAUDHARI &  
INDIRA K. JAIN, JJ.**  
DATE : 09<sup>th</sup> September, 2015.

Per Court:

1            Heard the learned counsel for the Petitioners Mrs.Kulkarni at length.

2            The learned counsel for the Petitioners has vehemently argued that power under Section 482 is required to be exercised in the present matter for quashing of FIR in question. She has further submitted that the society in question is Multi State Co-operative Society, which is exempted from draconian provisions of MPID Act. She has further submitted that the provisions of the said Act could not be applied. Apart from that she has further argued that there is no material whatsoever against the Petitioners inasmuch as Petitioner No.1 had already resigned in the year 2009 while Petitioner No.2 has

no concern with the said Multi State Co-operative Society. She, therefore, has submitted that the ratio in the case of **State of Haryana Vs. Bhajanlal**, reported in **AIR 1992 Sc 604** is squarely applicable. The learned counsel for the Petitioners has cited the decisions of (i) in the case of **Kishor Pandurang Garad Vs. State of Maharashtra**, reported in **2012 BomCR (Cri) 589** (ii) learned Single Judge of this Court in the case of **Wainganga Krishna Gramin Bank Vs. State of Maharashtra**, reported in **2012 ALL MR (Cri) 2948** (iii) High Court in the case of **Savda Merchant Co-op. Credit Society Ltd. and others Vs. State of Maharashtra and another**, reported in, **2014 (1) Bom C.R. (Cri) 132** (iv) this Court in the case of **Vithal Dagadu Mahajan Vs. Namdeo Pandurang Koli and another**, in **Criminal Writ Petition No.1133 of 2009**, decided on 25<sup>th</sup> February, 2010 (v) Apex Court in the case of **V. P. Shrivastava Vs. Indian Explosives Ltd. and others**, reported in (2010) 10 SCC 361 (vi) in the case of **Asoke Basak Vs. State of Maharashtra and others**, reported in, **2010 ALL SCR 2494** and (vii) Apex Court in the case of **Shanti Prasad Jain and Union of India Vs. The Director of Enforcement and another**, reported in, **AIR 1962 Supreme Court 1764** and has prayed for allowing the petition.

3           Per contra, the learned APP has vehemently opposed the petition and has submitted that the investigation is still going on and the depositors have been filing complaints after complaints with the police stations and are being investigated. Not only that the investigation is going on in various parts of the State of Maharashtra and the main accused persons are in jail. Investigation in relation to the present Petitioners is still on and is not yet completed and therefore, it would not be proper to prejudge the issue as to the applicability of the provisions of MPID Act or the Indian Penal Code. He, therefore, prays for dismissal of the present criminal writ petition.

4           We have heard the learned counsel for the rival parties at length.

5           Perusal of the FIR and the entire controversy that is presented before us is related to the loss of money of the depositors in the said Multi State Co-operative Society. The Directors of the said Society have been arrested and are in jail. The depositors whose money has not been returned, are making complaints to the police stations mentioning the details about their deposits and thus, fraud, cheating, breach of trust etc. is alleged against the said Society and its office bearers. So far as Petitioner No.1 is concerned, admittedly, he

was a Director, according to the Petitioner in the year 2007 to 2009. So far as Petitioner No.2 is concerned, the learned APP has contended that the investigation as to find out the role of Petitioner No.2 as to the operation he was connected with the said Society in relation to the fraud or offence under the Indian Penal Code or under the MPID Act, is still continuing and no definite conclusion can be arrived at this stage. According to him, if at all no material is found against the Petitioners, the Investigating Officer will not be shy of filing summary report before this Court. But if the material is found against the Petitioners, the Investigating Officer would file final report accordingly and it is thereafter only some conclusion can be drawn.

6           We have given careful thought to the submissions made by the learned counsel for the rival parties. Looking to the fact that economic offences in relation to the large number of depositors are being investigated by the police machinery and admittedly the Petitioner No.1 has some connection with the said Society and so far as Petitioner No.2 is concerned, even if as contended by the learned counsel for the Petitioners, had no connection, still it is to be found out by the Investigating Officer whether he had any interest or operational interest with the said Society and whether any such activities on the part of Petitioner No.2 would amount to offence under

various Acts, it is not possible for us at this stage to find out whether the provisions of MPID Act are applicable in the case of the Petitioners and such conclusion can be drawn only after completion of the investigation and not at this stage. That being so, we are not inclined to entertain the present writ petition.

7           The decisions cited by the learned counsel for the Petitioners are not applicable. Hence, we pass the following order:

ORDER

“Criminal Writ Petition No.503 of 2015, is not entertained and is dismissed.”

**[ INDIRA K. JAIN, J. ]**

**[ A. B. CHAUDHARI, J. ]**

ndm