

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

Criminal Application No.6040 of 2013

Suresh s/o. Rangnath Raskar. **.. Applicant.**

Versus

Ratnakar S/o Pandharinath Badakh
And Others. **.. Respondents.**

Shri. Abhijeet C. Darandale, Advocate, for applicant.

Shri. R.R. Karpe, Advocate, for respondent Nos.1 and 2.

Shri. U.H. Bhogle, Additional Public Prosecutor, for
respondent No.3.

CORAM: T.V. NALAWADE, J.

DATE : 6th JULY 2015

ORDER:

1) The application is filed for direction to take action against respondent Nos.1 and 2 under section 340 of the Code of Criminal Procedure so that they are tried for offences punishable under sections 193, 196, 199, 200, 463, 471, 34 and 120-B Indian Penal Code. Both the sides are heard.

2) It is the case of the applicant who has taken loan from cooperative society, respondent No.2, that the

society and its officers like respondent Nos.1 and 2 have created false record against him of the loan transaction. It is his case that in a proceeding which was filed for getting certificate under section 101 of the Maharashtra Cooperative Societies Act when he had seen the record of the loan, the forms of loan application were blank though they were bearing his signatures. It is contended that when in one matter this conduct of the society was brought to the notice of this Court, learned Single Judge of this Court had directed to make inquiry into the incident. He had initiated proceeding for contempt of Court also against the respondents. It is his case that no certificate was granted by the District Deputy Registrar, Cooperative Societies under section 101 of the Act. The society then filed proceeding under section 91 of the Act. It is contended that by filing forged documents like applications which were subsequently filed in this Court aforesaid offences are committed by the present respondents. Copies of the writ petitions, Letters Patent Appeal etc filed in this Court are produced and copies of the applications for loan which were produced in the office of the District Deputy Registrar are also produced.

3) This Court has seen both the sets of the documents of loan transaction. It can be said that some contents of the application were not filled but the forms were bearing signatures of the present applicant. By filling contents no loss as such is caused to the applicant as the forms and other documents were signed by him. This record is of cooperative society and there is corresponding record like the account maintained by the society.

4) There is another contention of the applicant that no payment was made to him though the society has shown that loan was sanctioned to him of Rs.6.9 lakh and for that also the aforesaid record is relevant and so action needs to be taken. This Court has gone through various extracts of account in respect of loans taken by the applicant from the society. It appears that in respect of loan taken in the year 2001 there was outstanding amount of Rs.6.67 lakh and then there was renewal of loan and new account of loan was opened by closing the previous account. As new loan was sanctioned the amount which was sanctioned under new loan was shown to be credited

in the old account and the old account was closed. It is not disputed that the applicant was a defaulter though he has tried to show that there was no renewal of loan. As there was only renewal of the loan, there was no question of actual payment of money to the debtor/present applicant. When there was renewal of the loan, all the necessary documents were executed and they are bearing the signatures of the present applicant.

5) The learned counsel for the applicant has placed reliance on some reported cases like (i) **2012 Cri.L.J. 2440 (Court on its own Motion v. State of Punjab)**; (ii) **2014 AIR SCW 993 (Perumal v. Janaki)**. The facts of these cases were altogether different. Taking action under section 340 of the Code of Criminal Procedure is within the discretion of the Court and in view of the aforesaid circumstances this Court holds that no such action is warranted against the cooperative society or its officers.

6) In the result, the application stands dismissed.

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

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