

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL APPLICATION (MAIN) NO.94/2015**

Devdatta Raikar,
son of Damodar Raikar,
major of age, Indian,
r/o. House No.533, Piplamoli,
Sirvoi, Quepem, Goa.

..... Petitioner.

V/s.

1. State of Goa,
through Police Inspector,
Quepem Police Station,
Quepem, Goa.

2. Mrs. Franita Rebello,
major, Branch Manager,
The Quepem Urban Co-op.
Credit Society Limited,
Cindio's Apartment, Quepem, Goa.

3. The Quepem Urban Co-op.
Credit Society Limited,
Cindio's Apartment, Quepem, Goa.

..... Respondents.

Mr. Ryan Menezes, Advocate for the petitioner.

Mr. S. R. Rivankar, Public Prosecutor for the respondent No.1.

Mr. C. Padgaokar, Advocate for the respondent No.3.

**CORAM :- F.M. REIS &
C.V. BHADANG, JJ.**

Date : - 17 DECEMBER 2015.

ORAL JUDGMENT : (PER C.V. BHADANG, J.)

Heard Mr. R. Menezes, learned Counsel appearing for the petitioner, Mr. S. R. Rivankar, learned Public Prosecutor for the respondent No.1 and Mr. C. Padgaonkar, learned Counsel appearing for the respondent No.3.

2. Rule. Learned Counsel appearing for the respondents waive service. Heard forthwith, with the consent of the learned Counsel.

3. By this petition, the petitioner who is accused No.1, is seeking quashing of the proceedings in Criminal Case No. 35/S/2013 pending before the learned J.M.F.C. at Quepem in which the petitioner and the accused No.2 (since deceased) were chargesheeted for the offences punishable under Sections 465, 468, 471 and 410 of the Indian Penal Code. The Charge is framed and the Prosecution has examined some witnesses.

4. The material allegation against the petitioner is that he had submitted a forged salary certificate, showing incorrect salary and on the basis of that, he had availed of a loan from the respondent No.3-Credit Society.

5. It is submitted by the learned Counsel for the petitioner that the letter, on the basis of which the charge of forgery is made, was signed by the accused No.2 who was holding the charge of the Office and that the said accused is since dead. It is submitted that the petitioner has also cleared the dues of the Third Respondent and the Third Respondent has expressed no objection for quashing of the charge-sheet. The learned Counsel for the petitioner has placed reliance on the decision of the Hon'ble Supreme Court reported in 2014 AIR(SCW) 4319 in the case of *Yogendra Yadav & ors. vs. State of Jharkhand & anr.* in order to submit that where the parties have settled their dispute and where there is no public law element involved and that the offences are not serious or involving moral turpitude, this Court can exercise powers to put an end to the prosecution.

6. The learned Counsel appearing for the respondent No.3 has submitted that in view of the fact that the petitioner has cleared all the outstanding dues of the Third Respondent, the Third Respondent has no objection for quashing the charge-sheet.

7. It is submitted by Shri S. R. Rivankar, learned Public Prosecutor that considering the facts and circumstances of the case, appropriate orders be passed.

8. We have considered the circumstances and the submissions made. It would be pertinent to note that the allegations in so far as forgery is concerned, were basically against accused No.2 who is since deceased. The loan amount has been cleared. It appears that the Third Respondent has also no objection for quashing of the charge-sheet.

9. Having regard to the overall circumstances and considering the fact that the circumstances fall within the ambit of the decision of the Honourable Supreme Court in *Yogendra Yadav & ors. vs. State of Jharkhand & anr* (supra) and in view of the fact that the accused No.2 is dead, no useful purpose would be served by

continuing with the prosecution, as the prosecution can be said to have arisen out of a civil dispute as to non-recovery of the loan amount, which now stands recovered.

10. In that view of the matter, we find that this Court can exercise its jurisdiction to give quietus to the dispute. In such circumstances, the petition is allowed in terms of prayer clause (a). Rule is made absolute in the aforesaid terms.

C.V. BHADANG. J.

F.M. REIS, J.

ssm.