

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.106/2015

(Shankar Onkar Chaudhari ..vs.. The Buldana Urban Co.Op. Credit Society Ltd.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. M. P. Kariya, Advocate for applicant.

CORAM : V. M. DESHPANDE, J.

DATE : SEPTEMBER 2, 2015.

Heard Mr. Kariya, learned counsel for the applicant.

By the present application, the applicant is assailing the order passed by learned Sessions Judge, Buldana dated 20.12.2014 in Criminal Revision No. 107/2014 by which the learned Sessions Judge dismissed the the revision.

Non applicant-The Buldana Urban Co. Op. Credit Society Ltd. has initiated criminal proceedings against the present applicant for the offence punishable under Section 138 of the Negotiable Instruments Act in respect of dishonour of cheque of an amount of Rs.3,00,000/-.

In the complaint, the present applicant has filed an application Exh.-20 on the ground that till the disposal of the Writ Petition No.9253/2014, which is pending before this Court, Criminal Case should not be proceeded.

The said writ petition arose out of the order passed by the authorities under the Cooperate Societies Act by issuing recovery certificate under Section 101 of the Cooperative Societies Act, since according to applicant, the said certificate was obtained by the complainant-Society fraudulently. Hence, the applicant filed Civil Suit No. 155/2010 in the Court of Civil Judge Senior Division. The said plaint was returned by the learned Judge for want of jurisdiction. The said order was challenged by the present applicant by filing Misc. Civil Appeal No. 85/2013 before the appellate Court, which was dismissed by the appellate Court. Against that, Writ Petition No.9253/2014 was filed.

The recovery proceedings initiated by the complainant is for recovery of the loan amount by way of availing the statutory remedy under the M.C.S. Act and the proceedings under the N.I. Act are at different footing.

In my view, the learned Sessions Judge, has correctly applied the law laid down by the apex Court in **Pratibha Rani..vs..Suraj Kumar, AIR 1985 SC 628.**

In that view of the matter, no case is made out by the applicant. Hence, Criminal Application No.106/2015 is dismissed.

JUDGE