

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

CRIMINAL WRIT PETITION NO. 370/2014

(Gas Suvidha Petrochemicals (India) Ltd.Th: Its M.D. Shri Arun Akre vs. The State of Maharashtra and another)

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

Court's or Judge's order

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Mr. S.A. Bramhe, Advocate for the petitioner
Mr. Ukey, Addl. Public Prosecutor for respondents

CORAM : SMT. VASANTI A. NAIK &
A.M. BADAR, JJ.

DATED : 8th April, 2015.

Heard learned counsel appearing for the petitioner and
perused the material placed on record.

It is the contention of the learned counsel for the petitioner that the petitioner-Company was established for running a bottling plant of Gas, in the name and style "Gas Suvidha company, Nagpur". For running the said company, the petitioner had borrowed certain loans from a Cooperative Bank, but it was unable to refund the said loan. Then, one Damodar Yamaji Rokade and his associates took the responsibility of repayment of loan of that Cooperative Bank, but they failed to refund the loan. It is the case of the petitioner that said Shri Damodar Yamaji Rokade and his associates prepared forged and fabricated documents and transferred the ownership by way of shareholders and the property of the company by filing a return under the Company Act. This has resulted in lodging the report by the petitioner with the police. According to the petitioner, the Economic Offence Wing has enquired into the first information report as lodged by the petitioner-company and ultimately the Police

Inspector of the Economic Offence Wing came to the conclusion that no cognizable offence is made out. As such the proceedings were closed.

According to the petitioner, the Police inspector of Economic Offence Wing erroneously come to the conclusion that no cognizable offence is made out though the evidence in support of the averments in the F.I.R. was placed by the petitioner before the police authority. Therefore, according to the petitioner, the impugned communication issued by the Police Inspector of Economic Offence Wing needs to be set aside and the police may be directed to re-enquire into the matter.

We are of the considered opinion that in exercise of our powers under Article 226 of the Constitution of India, such a prayer cannot be granted. The petitioner has remedy to approach the learned Magistrate if the petitioner is of the opinion that Damodar Rokade and his associates have committed cognizable offence and, for that, the petitioner can lodge a private criminal complaint against the accused.

Hence, we decline to exercise our jurisdiction under Article 226 of the Constitution of India and, therefore, Criminal Writ Petition No.370/2014 is dismissed.

JUDGE

JUDGE

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