

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

CRIMINAL WRIT PETITION NO.162 OF 2016

Krishnamurthy Naidu Govind Swami .. PETITIONER
Naidu Pullayagari

VERSUS

The State of Maharashtra .. RESPONDENTS
and others

Mr.R.N. Dhorde, Sr. Counsel i/b Mr. V.R.Dhorde, Advocate
for the petitioner
Mr.P.N.Kutti, APP for the respondent/ State
Mr.S.S.Rathi, Advocate for respondent No.3

WITH

CRIMINAL WRIT PETITION NO.47 OF 2016

D.C.Shrinivasulu Reddy S/o. .. PETITIONER
D. Subba Reddy

VERSUS

The State of Maharashtra .. RESPONDENTS
and others

Mr.Mahesh R. Sonwane, Advocate for petitioner-absent
Mr.P.N.Kutti, APP for the respondent/ State
Mr.S.S.Rathi, Advocate for respondent No.2

WITH

CRIMINAL WRIT PETITION NO.497 OF 2016

Vijay Gokuldas Majithia

.. PETITIONER

VERSUS

The State of Maharashtra
and another

.. RESPONDENTS

Mr.R. F. Totla, Advocate for petitioner
Mr.P.N.Kutti, APP for the respondent/ State
Mr.S.S.Rathi, Advocate for respondent No.2

**CORAM : A.V.NIRGUDE &
V.L. ACHLIYA, JJ.
DATED : 10.06.2016**

P.C. :-

1. The petitioner is one of the accused in Crime No.164 of 2015 registered with Latur Rural Police Station. The gist in the complaint could be narrated as under:-

2. The complainant/respondent No.3 is the manufacturer of Cattle feed. He sales and dispatches his product to various parties all over India. He has maintained relations with a broker at Mumbai. This broker has several firms. All these firms from time to time

intimated to the complainant that he should send goods to various parties in the Country.

3. The petitioner is one such purchaser residing at Benguluru. He admittedly received the goods manufactured by the complainant. It is the allegations of the complainant that instead of paying price of goods to him the petitioner paid price to a third party which was a fictitious party created by the broker at Mumbai. The allegation of the complainant is mainly against his Broker and his firms at Mumbai. They allegedly recovered price of goods from various parties representing to them that the goods belonged to them etc. They purposely kept the complainant's name in dark so as to deprive the complainant of price of goods.

4. Assuming that the Broker in Mumbai deceived purchasers as well as the seller (Complainant), a purchaser cannot be said to be party to this fraudulent activity. The petitioner admittedly paid price of the goods which he received through RTGS (Bank) to the third party and not to the complainant. This third party should now divert such funds to the complainant. If that is not done the broker could be said to be guilty of misappropriation funds belonging to his principal. But the purchaser appears to be an innocent person. He at the

most can be a witness in this case. We are convinced that there is no case against the petitioner. No offence is made out against him. The Criminal Writ Petition No.162 of 2016 therefore should succeed. Hence the same is accordingly allowed in terms of prayer Clause (B).

5. Rest of the complaint should continue against other accused.

6. Criminal Writ Petition No.47 of 2016 and Criminal Writ Petition No.467 of 20156 filed by other accused would be heard on next date i.e. on **24.06.2016**.

7. Observations made above are not to be read in connected petitions.

[V.L. ACHLIYA, J.]

[A.V.NIRGUDE, J.]