

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL WRIT PETITION NO. 456 OF 2007

- 1) Anil s/o Sahebrao More,
Age: 35 years, Occ: Agri.,
R/o: Chinchtakali, Taluka Gangakhed,
District Parbhani.
- 2) Sudhakar s/o Sahebrao More,
Age: 30 years, Occ: Agri.,
R/o: Chinchtakali, Taluka Gangakhed,
District Parbhani.
- 3) Sahebrao s/o Nagorao More,
Age: 54 years, Occ: Agri.,
R/o: Chinchtakali, Taluka Gangakhed,
District Parbhani.

... **PETITIONERS**

VERSUS

Pradip s/o Ganpatrao Girdhari,
Age: 51 years, Occ: Special Recovery Officer,
District Central Co.Operative Bank Ltd.
Parbhani, District Parbhani.

... **RESPONDENT**

...
Mr. Milind Patil (Beedkar), Advocate for the Petitioners.
Mr. A. T. Ghute, Advocate for the Respondent.

...

CORAM : **V. K. JADHAV, J.**
DATE : 30th November, 2016.

ORAL JUDGMENT:

. By this criminal writ petition, the Petitioners / original

Accused seek to quash and set aside the order dated 13th July, 2007, passed by the learned Additional Sessions Judge, Gangakhed in Criminal Revision No.4 of 2007, confirming thereby the order passed by IIIrd Judicial Magistrate First Class, Gangakhed, in R.C.C. No.4 of 2007 dated 8th May, 2007, issuing thereby the process against the Petitioners / original Accused. Further, the Petitioners also seek to quash and set aside the proceedings in R.C.C. No.4 of 2007, pending in the Court of IIIrd Judicial Magistrate First Class, Gangakhed.

2 Brief facts giving rise to the present criminal writ petition are as follows:

The Petitioners are the original Accused in R.C.C. No.4 of 2007 and the Respondent being a Special Recovery Officer had filed a complaint before the Judicial Magistrate First Class, Gangakhed against the Petitioners / Accused for having committed the offence punishable under Sections 183, 184, 189 and 447 of the Indian Penal Code. On 15th January, 2007, the learned Judicial Magistrate First Class has called upon the police report as provided under Section 202 of the Code of Criminal Procedure and since no report was submitted by the police, by order dated 20th March, 2007, the Magistrate directed the Complainant to produce his evidence

before issuance of process. Accordingly, the Complainant has adduced his evidence at Exhibit – 5 and Exhibit – 6 and by order dated 8th June, 2007, the learned Magistrate has issued the process against the Petitioners / Accused for the offence punishable under Sections 183, 184, 189 and 447 of the Indian Penal Code. Being aggrieved by the same, the Petitioners / Accused preferred Criminal Revision No.4 of 2007 before the Sessions Court at Gangakhed and the learned Additional Sessions Judge, Gangakhed by impugned order dated 13th July, 2007, dismissed the said revision. Hence this criminal writ petition.

3 The learned counsel for the Petitioners submits that the Petitioners have repaid the entire loan amount by way of one time settlement and the receipts to that effect came to be issued by the Branch Manager of the D.C.C. Bank, Parbhani. Even the concerned society has also passed the receipt to that effect and also issued no due certificate on 14th September, 2013. The learned counsel submits that basically the dispute is of civil nature and that the complaint is also belatedly filed with an ulterior motive for recovery of the said amount.

4 The learned counsel for the Respondent / original Complainant submits that the Petitioners have paid the loan amount as one time settlement and therefore, the grievance of the said D.C.C. Bank regarding loan amount as on today is resolved. The learned counsel submits that the Respondent / original Complainant has filed his affidavit today before this Court and stated in the affidavit that he has no grievance against the Petitioners as per the instructions received by him from the bank and even he is ready to withdraw the complaint filed against the Petitioners / Accused.

5 This matter is pending since 2007 and in terms of the interim relief granted by this Court on 13th September, 2007, the further proceedings in R.C.C. No.4 of 2007 pending before the IIIrd Judicial Magistrate First Class, Gangakhed, are stayed.

6 In view of this, there is no point in relegating the parties to the Trial Court for withdrawal of the complaint as is stated by the Respondent / Complainant in the affidavit filed today before this Court. In light of the affidavit filed by the Respondent / Complainant and the fact that the dispute is purely of civil nature, the criminal writ petition is allowed in terms of prayer clause (C-1) with prayer clause (C).

7 Rule is made absolute in the above terms. The criminal writ petition is accordingly disposed of.

[V. K. JADHAV, J.]

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