

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

WRIT PETITION NO. 4827 OF 2012

Gangadhar s/o Bhanudas Rhokale
age major, occ. Agril.
r/o Bhalvani, Tq. Parner
Dist. Ahmednagar

.. PETITIONER

VERSUS

1. The State of Maharashtra
Co-operative Department
Mantralaya, Mumbai 32.
2. The Deputy Registrar, Ahmednagar
Dist. Ahmednagar.
3. The Sampada Nagri Co-op Credit
Society Ltd. Ahmednagar
Dist. Ahmednagar
Through the Administrator.
4. M/s D.M. Baraskar & Company
Chartered Accountant,
The Sampada Nagri Co-op Credit
Society Ltd. Ahmednagar.
r/o A-8, Gurukul,
Laltaki Ahmednagar
Dist. Ahmednagar.

.. RESPONDENTS

Mr. A.S. Gandhi, advocate for petitioner.
Mr. P.S. Patil, AGP for the State.

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**CORAM : R.M. BORDE &
A.I.S. CHEEMA, JJ.
DATE : 7th JANUARY, 2016.**

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Heard.
2. Rule. Rule made returnable forthwith. With the consent of the parties, petition is taken up for final disposal at admission stage.

3. Petitioner is objecting to the notice issued by the Chartered Accountant, who has conducted audit of the respondent bank, directing the petitioner to deposit amount due and payable by him towards the loan and it has been further warned that, in the event of his failure, the auditor would lodge criminal prosecution against him.

4. So far as the aspect of recovery of amount is concerned, it is not within the domain of the Chartered Accountant, who has conducted the audit, to enforce recovery and it is for the bank to take appropriate steps. It would be open for respondent no. 3 bank to initiate proceedings and recover the amount due and payable by petitioner. It is informed that, recovery proceedings have already been initiated by the bank and it would be open for the bank to file appropriate recovery proceedings and enforce the recovery of the amount. So far as the initiation of criminal prosecution is concerned, it would be open for either the auditor or respondent bank or the officer of the cooperation department to take steps and lodge First Information Report and set the criminal law in motion, in the event it is found that the petitioner has committed any crime. Such liberty was also granted by this Court while issuing order dated 04.05.2012.

5. In view of reasons stated above, we deem it appropriate to allow the petition partly. Notice impugned in the petition issued by the Chartered Accountant is quashed and set aside. As has been recorded above, so far as the recovery of amount and lodging of FIR in respect of alleged criminal acts

of petitioner, it would be open for the respondents to take appropriate action in accordance with law. Rule made absolute to the extent specified above. In the facts and circumstances of the case, there shall be no order as to costs.

(A.I.S. CHEEMA)
JUDGE

(R. M. BORDE)
JUDGE

dyb