IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

928 CRIM. APPLICATION NO. 1180 OF 2004

JALNA DISTRICT CENTRAL CO-OP BANK LTD. JALNA

VERSUS

STATE OF MAH. & ORS.

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Mr. B.N.Patil, Advocate for Applicant.
Mr. A.R.Kale, A.P.P. for R – 1 – State.
Mr. P.B.Kadam h/f Mr. V.D.Salunke, Advocate for R – 2.
Mr. R.S.Shinde, Advocate for R – 4.

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CORAM : Z.A.HAQ, J.
DATE : 1st DECEMBER, 2016

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ORAL ORDER :

01. This is a classic case reflecting the attitude of prosecution in conducting the matters.

02. The Auditor lodged complaint against the

accused that the accused have forged certain documents, put signatures of account holders and withdrawn amount from the accounts of account holders and, therefore, the accused are liable for prosecution and conviction for the offences punishable u/ss 409,420,467,468,471,477-A read with section 34 of the Indian Penal Code. The learned Magistrate, after conducting the trial, recorded that the prosecution has failed to prove the charges against the accused and has acquitted them. The present applicant [Jalna District Central Co-operative Bank Ltd., Jalna] has approached this Court u/s 482 of the Code of Criminal Procedure making grievance against the Judgment passed by the learned Magistrate acquitting the accused and praying that the State be directed to file Appeal to challenge the Judgment or the matter be remanded for *de-novo* trial after giving an opportunity to the prosecution to lead oral and documentary evidence.

03. With the assistance of the learned Advocates for the applicant and the accused and the

learned A.P.P., I have examined the record. The prosecution examined Mr. Sanjiv Gaikwad, the in-charge Special Auditor [P.W.1], who had lodged the complaint, Uttamrao [P.W.2], an account holder who was also the Director of the Bank, Sitaram [P.W.3] another account holder, Mr. B.S.Awsarmal [P.W.4], Police Station Officer who had registered the crime, Mr.S.V.Nimbhorkar [P.W.5], Investigating Officer and Mr. Keshav Nayak [P.W.6], Police Inspector who filed the Charge Sheet.

04. Uttamrao [P.W.2] has stated that an amount of ₹ 27,900/- was withdrawn from the account of his mother by putting false thumb impression. The learned Magistrate has exhaustively considered the evidence of Uttamrao [P.W.2] and has recorded that he has not levelled any specific allegation against the accused that the forgery and withdrawal of the amount is by the accused. Similarly, after examining the evidence of Sitaram [P.W.3], the learned Magistrate has recorded that he has not made any specific allegations about the

forgery, withdrawal of amount or deception by the accused.

The learned Advocate for the applicant has not been able to point out any infirmity or perversity in the conclusions of the learned Magistrate. After considering the facts on record and examining the evidence, I find that the findings recorded by the learned Magistrate can not be faulted with.

05. The Criminal Application is dismissed with costs of ₹ 20,000/- [Rupees Twenty Thousand], out of which ₹ 10,000/- shall be paid to non-applicant No. 2 Shankar s/o Malharrao Deshmukh and ₹ 10,000/- shall be paid to non-applicant No. 4 Pandurang Vishwanath Kamethe. The amount of costs shall be paid within one month from today.

[Z.A.HAQ, J.]