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

CRIMINAL APPLICATION NO. 5481 OF 2016

1. Pawandeepsing Mahendrasing Kohli
Age: 35 years, Occu. Business,

2. Tejindarkaur W/o Mahendrasing Kohli
Age: 55 years, Occu. Household,

Both R/o Plot No. 278, N-3
CIDCO, Aurangabad. ...APPLICANTS

versus

1. The State of Maharashtra
Through Police Inspector
Mukundwadi Police Station,
Aurangabad.

2. The Branch Manager,
Malkapur Urban Cooperative Bank Ltd.,
Aurangabad. ...RESPONDENTS

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Mr. Amol Gawali , Advocate for applicants
Mr. P. S. Patil, APP for respondent – State
Mr. N. T. Tribhuwan, Advocate for Respondent 2

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**CORAM : S.S. SHINDE, AND
K.K. SONAWANE, JJ.**

DATED : 7th DECEMBER, 2016.

ORAL JUDGMENT :- (Per : S.S. Shinde, J.)

1. Rule. Rule made returnable forthwith. Heard finally with the consent of parties.

2. This application is filed by the applicants under section 482 of the Code of Criminal Procedure with following prayer:

> *"[A] The Hon'ble High Court may be pleased to quash and set aside the FIR bearing Crime No. I-858 dated 12-11-2015 registered at Mukundwadi Police Station, Aurangabad for the offence punishable under sections*

420, 199, 200, 406 read with section 34 of the Indian Penal Code against the present Applicants."

3. The learned counsel appearing for the applicants submits that pursuant to alleged First Information Report (for short "FIR) filed by respondent No. 2, present applicant No. 1, who is power of attorney holder of Guruleenkaur Kohli W/o Pawandeepsingh Kohli had settled the outstanding loan by virtue of a one time settlement, by paying an amount of Rs. 95,00,000/- (Rupees Ninety Five Lakhs). He further submits that the Branch Manager of respondent No. 2-bank, in furtherance of one time settlement, had issued two separate certificates, certifying that the term loan taken by applicant No. 1 has been cleared off and there are no outstanding dues from the loan Account No. 001150120000161 and further certifying that the charge on the property bearing Gut No. 152 (P) admeasuring 62 Aar, situated at Mauje Balapur, Taluka and District Aurangabad has been released in view of the one time settlement and the bank does not have any charge on the said property.

4. The learned counsel appearing for the applicants further submitted that Branch Manager, Malkapur Urban Co-operative bank, Jawahar colony, Aurangabad, by his letter addressed to the Inspector, Pundalik Nagar Police Station, Aurangabad, had conveyed that in view of the payment of the term loan by applicant No.1 and issuance of '*No Dues Certificate*' against the term loan facility bearing No. 001150120000161, the bank is withdrawing the FIR lodged on 19-10-2015 bearing No. 508, which was subsequently numbered as Crime No.

I-858 of 2015 with the Mukundwadi Police Station.

5. Pursuant to the notice, on behalf of respondent No. 2 – bank, one Mr. Rajendra Namdeo Jadhav, working as Manager and authorized Officer for the Malkapur Urban co-op. Bank Ltd. Malkapur has filed the affidavit in-reply. In paragraph No. 7 of said reply, it is stated that during pendency of the said S.A. No.45 of 2016, the applicant - borrower approached to the bank and requested for one time settlement of his loan account. After negotiations, the loan account was settled at Rs. 95,00,000/- (Rupees Ninety Five Lakhs). The applicant has deposited entire consideration amount with respondent No. 2 - Bank towards one time settlement of his loan account. Accordingly, '*No Dues Certificate*' to that effect has been issued by respondent No. 2 bank on 01-06-2016. It is specifically stated that in view of the fact that the bank's dues in respect of the said term loan account standing in the name of the borrower are cleared off, respondent No. 2 bank has released its charge over the said land property bearing Gut No. 152 part admeasuring 62 *Aar*, at village Balapur, Taluka and District Aurangabad. In paragraph No. 10 of said reply, it is stated that in view of the settlement of the loan account of borrower with the present respondent-bank, this Court in the interest of justice, may pass appropriate orders.

6. We have considered the submissions advanced by the learned counsel appearing for the applicants and the learned APP appearing for respondent No. 1 and learned counsel appearing for respondent No. 2. Upon careful perusal of averments in the application, affidavit in-reply

filed by respondent No. 2 and also application filed by respondent No. 2, requesting the concerned Police Station for allowing them to withdraw the impugned FIR, we are of the view that further continuation of the investigation and proceedings on the basis of crime No. I-858 of 2015 registered with Mukundwadi Police Station for the offence punishable under sections 420, 199, 200 and 406 read with section 34 of the Indian Penal Code, will be abuse of process of law and exercise in futility and wastage of time of prosecution agency and the Court.

7. In light of the discussion herein-above and keeping in view the exposition of law in the case of ***Gian Singh Vs State of Punjab and another*** reported in ***(2012) 10 SCC 303,*** we are of the opinion that present application deserves to be allowed. The Application is therefore allowed in terms of prayer clause “A” .

8. Rule is made absolute in above terms.

Sd/- Sd/-

[K. K. SONAWANE, J.] **[S.S. SHINDE, J.]**

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