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

CRIMINAL APPLICATION NO. 6285 OF 2016

Dnyaneshwar s/o Baburao Borse,
Age: 45 years, Occu: Advocate and Agri.,
R/o Lone, Jamner, Tq. Jamner,
Dist. Jalgaon

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

Mr S. D. Hiwrekar, Advocate for applicant;
Mr R. V. Dasalkar, Addl. Public Prosecutor for respondent

WITH

CRIMINAL APPLICATION NO. 6123 OF 2016

Mangesh Bharat Patil,
Age: 40 years, Occu: Agri. & Business,
R/o Kinh, Tq. Jamner,
Dist. Jalgaon

..APPLICANT

VERSUS

The State of Maharashtra,
Through Jamner Police Station,
Tq. Jamner, Dist. Jalgaon

..RESPONDENT

Mr Digamber B. Shinde, Advocate holding for Mr S. R. Dheple, Advocate
for applicant;
Mr R. V. Dasalkar, Addl. Public Prosecutor for respondent

WITH

CRIMINAL APPLICATION NO. 6128 OF 2016

1. Bhagwan s/o Hari Patil,
Age: 74 years, Occu: Agril.,
R/o Kasali, Tq. Jamner,
Dist. Jalgaon
2. Sau. Pramila Bai w/o Ragho Patil,
Age: 48 years, Occu: Household,
R/o Paldhi, Tq. Jamner,
Dist. Jalgaon

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3. Sau. Kalpanabai w/o Dnyaneshwar Patil,
Age: 58 years, Occu: Household,
R/o Madni, Tq. Jamner,
Dist. Jalgaon ..APPLICANTS

VERSUS

The State of Maharashtra,
Through the Police Station Officer,
Police Station Jamner,
Tq. Jamner, Dist. Jalgaon ..RESPONDENT

Mr E. P. Sawant, Advocate holding for Mr M. P. Kale, Advocate for
applicants;
Mr R. V. Dasalkar, Addl. Public Prosecutor for respondent

WITH

CRIMINAL APPLICATION NO. 6161 OF 2016

Ravindra Ukhardu Patil,
Age: 74 years, Occu: Agri.,
R/o Tahakali (B.K.), Tq. Jamner,
District Jalgaon ..APPLICANT

VERSUS

The State of Maharashtra,
Through the Police Station Officer,
Police Station Jamner,
Tq. Jamner, Dist. Jalgaon ..RESPONDENT

Mr E. P. Sawant, Advocate for applicant;
Mr R. V. Dasalkar, Addl. Public Prosecutor for respondent

WITH

CRIMINAL APPLICATION NO. 6306 OF 2016

Dilip Samsher Gaikwad,
Age: 43 years, Occu: Agri.,
R/o Godri, Tq. Jamner,
District Jalgaon ..APPLICANT

VERSUS

The State of Maharashtra,
Through Jamner Police Station,
Tq. Jamner, Dist. Jalgaon ..RESPONDENT

(3)

Mr Digamber B. Shinde, Advocate holding for Mr S. R. Dheple, Advocate
for applicant;

Mr R. V. Dasalkar, Addl. Public Prosecutor for respondent

WITH

CRIMINAL APPLICATION NO. 6358 OF 2016

1. Jagannath s/o Dayaram Lokhande,
Age: 67 years, Occu: Advocate,
R/o : Nagarkhana Jamner,
Tq. Jamner,
Dist. Jalgaon

2. Arun s/o Wamanrao Ughade,
Age: 50 years, Occu: Agri.,
R/o : Takarkhede, Tq. Jamner,
Dist. Jalgaon

..APPLICANTS

VERSUS

The State of Maharashtra

..RESPONDENT

Mr M. S. Deshmukh, Advocate for applicants;

Mr R. V. Dasalkar, Addl. Public Prosecutor for respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 24th November, 2016

ORAL ORDER :

Since all these applications arise out of C.R. No.135 of 2016, they
are being decided by this common order.

2. Each of the applicants was a Director of Shetkari Sahakari Sangh
Ltd., Jamner for the period from March, 2011 to March, 2016. Thereafter
new Directors came to be elected. In the audit conducted by the Special
Auditor, it was noted that an amount of Rs.22,04,314/- had been
misappropriated by some employees and earlier Directors of the Board. On

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that basis, the Special Auditor filed his report, on the basis of which the aforesaid crime came to be registered. In the said report, personal liability has been fastened on Shri Ganesh Patil and Shri Shriram Patil, who were employees of the Sangh. The present applicants, as former Directors, have also been named in the complaint.

3. It is submitted by the learned Counsel for the applicants that as per the report of the Special Auditor, personal liability has been fixed on two employees and present applicants have been shown as accused merely because they were Directors of the Sangh. It is submitted that the allegation against the present applicants is with regard to lack of proper supervision in the affairs of the Sangh. It is further submitted that the employees named in the report have admitted the misappropriation in question and have also deposited some of the amounts. It is then pointed out that some Directors, who were members of the earlier Board and who were also re-elected, have not been shown as accused in the present crime. On these grounds, the applicants seek protection.

4. The applications are opposed by the learned Addl. Public Prosecutor by relying upon the police papers. It is submitted that the report of the Special Auditor indicts the present applicants as they were party to various resolutions passed by the Sangh. Merely because two employees have been held to be personal liable, the present applicants cannot be exonerated. It is, therefore, submitted that all the applications deserve to be rejected.

5. Perused the first information report as well as the police papers. The crime in question has been registered on the basis of the audit report submitted by the Special Auditor. It has been found by the Special Auditor that two employees Shri Ganesh Patil and Shri Shriram Patil are personally responsible for misappropriation of the aforesaid amount and the present applicants are guilty of slack supervision. The remand papers indicate that according to the Investigating Officer, both the employees have admitted misappropriation and have sought to deposit certain amounts in that regard. Thus, considering the specific nature of allegations and as two other employees have been found liable for misappropriation, the present applicants are entitled for protection. Moreover, selected inclusion of some Directors to the exclusion of others also cannot be ignored.

6. In view of aforesaid, all the applications are allowed.

(i) In the event of arrest of the applicants, in connection with C.R. No.135 of 2016, registered at Jamner Police Station, Dist. Jalgaon, for offences punishable under Sections 420, 403, 406, 408 and 409 read with Section 34 of the Indian Penal Code, they shall be released on bail, on each of them furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

(ii) The applicants shall attend the concerned police station on 5th December, 2016 and thereafter as per directions of the Investigating Officer.

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- (iii) The applicants shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or to the Court.
- (iv) The applicants shall not tamper the evidence of the prosecution.
- (v) The applicants to co-operate the Investigating Officer in investigation of crime in question.

Observations made in this order are only for the purposes of deciding the present applications.

Applications are allowed and disposed of.

(A.S. CHANDURKAR, J.)

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