

petitioners and respondent Nos 3 to 6 and 8 are members of Bank of India Staff Co-operative Credit Society Ltd. Respondent Nos. 3 to 6 and 8 had committed irregularities in managing the affairs of the society. The petitioners, therefore, filed complaint with various authorities under Maharashtra Co-operative Societies Act, 1960, pursuant to which there was enquiry and various adverse observations were made against the committee of respondent Nos. 3 to 6 and 8, managing the affairs of the society. According to petitioners, the observations made in the enquiry report reveals commission of offence under Section 406, 408, 409, 420, 120(b) read with Section 34 of the Indian Penal Code and therefore, the petitioners have approached the trial Court with a request to refer the matter to Azad Maidan Police Station under Section 156(3) of the Code of Criminal Procedure for investigation. However, the trial Court instead of referring the complaint to police for investigation, took cognizance thereof directing the petitioners to remain present themselves for recording verification.

4. As per learned counsel for petitioners, the enquiry as ordered by the trial Court may not be sufficient to unravel the various aspects of the acts and various irregularities committed by the managing committee of respondent Nos 3 to 8. The police can only properly do the same. Therefore, according to facts of the present case, it requires proper

investigation more than that of enquiry by the Court under Section 202 of the Code of Criminal Procedure, after taking cognizance of the case.

5. However, as rightly submitted by learned counsel for respondent Nos. 3 to 8, once the trial Court has taken cognizance of the case which was legal within the jurisdiction of the trial Court, then this court should be slow in interfering in the discretion exercised by the trial Court. It is needless to say that when any private complaint is filed, there are two courses open to the Magistrate, one is to direct investigation under Section 156(3) of the Code of Criminal Procedure and the another course is to take cognizance under Section 202 of the Code and thereafter to direct enquiry by the police. Here in the present case, the course adopted by trial court cannot be called as per se illegal or ab-initio-void. In such situation, this Court cannot interfere in the impugned order passed by the trial court. This writ petition, therefore, holds no merits and hence stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]