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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3308 OF 2013

Baliram Pandurang Shinde

..Petitioner.

V/s.

M/s. Hindustan Organics Chemicals Co. Ltd. and Ors. ..Respondents.

Mr.K.M. Sangani for the petitioner.

Mr.K.V. Saste, APP for respondent-State.

Ms.Sangeeta Yadav for respondent No.3.

Mr.M.M.Suryavanshi, GM (PLA), Hindustan Organic Chemicals Ltd..
P.O. Rasayni, District Raigad present.

**CORAM : NARESH H. PATIL AND
A.M.BADAR, JJ.**

DATED : 30TH MARCH, 2016

P.C. :-

1. Heard learned counsel for the petitioner and respondent No.3 and learned APP for the State.

2. The petitioner claims that the Provident Fund claim of the petitioner has not been honoured by respondent Hindustan Organics Chemicals Ltd. and it is submitted that non payment of the Provident Fund claim amounts to criminal breach of trust and, therefore, complaint was lodged. It is

submitted that the police investigated the complaint and filed 'C' summary. By an order dated 15th January, 2011 the Metropolitan Magistrate, 34th Court, Vikhorli, Mumbai accepted the 'C' summary. The petitioner thereafter filed a Criminal Revision Application No.486/2011 in the Court of Sessions. By an order dated 11th May, 2015, learned Sessions Judge, Greater Mumbai dismissed the Criminal Application.

3. By the present petition, the petitioner has prayed for following reliefs:-

“(a) That this Hon'ble Court be pleased to issue appropriate Writs or Writ of Mandamus or Writ of Certiorari or appropriate directions / orders be issued to respondent No.4 to take actions in respect of Exhibit against respondent Nos.1, 2, 3 for the offence under section 405, 409 of Indian Penal Code and be dealt with according to law;

(b) That this Hon'ble Court be pleased to set aside the order and judgment passed in C.C.No.130/SW/2009 by learned Magistrate, 34th Court, Vikhroli, Mumbai (ii) Criminal Revision Application No.486 of 2013, passed by the Hon'ble Sessions Court of Greater Mumbai as on 11/5/2015 be quashed. ”

4. Counsel for the petitioner has also placed reliance on the judgment of the Apex Court in the case of ¹**Harihar Prasad Dubey V/s. Tulsi Das Mundra and Ors.** We have perused the judgment cited supra.

5. In the facts of the case, we are not inclined to interfere in the matter. Counsel for the petitioner submits that the statutory remedy for claiming the Provident Fund dues are not resorted to by the petitioner. We are, therefore, not inclined to exercise our inherent powers. There is no merit in the petition. The petition is accordingly dismissed.

(A.M. BADAR, J.)

(NARESH H. PATIL, J.)

¹ AIR 1981 Supreme Court 81