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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION No. 4472 OF 2015

Alka Chandewar ..Petitioner.  
Vs  
The State of Maharashtra & Ors ..Respondents.

Mr Shailesh Kantharia for the petitioner.

Mr Deepak Thakare, APP for the Respondent-State.

CORAM : A.S.GADKARI, J.

DATE : 8<sup>th</sup> March, 2016

PC.

1) The present writ petition under Article 227 of the Constitution of India is directed against the dismissal of the Criminal Revision Application No. 51 of 2013 by the learned Ad-hoc Additional Sessions Judge, Dindoshi, Mumbai by its order dated 12.8.2015 thereby confirming the Order dated 20.2.2013 passed by the learned Additional Chief Metropolitan Magistrate, 24<sup>th</sup> Court, Borivali, Mumbai in CC No.2400-440/SW/2010, accepting 'C' Summary report submitted by the Investigating Officer attached to Malad Police Station, Mumbai in MECR No. 3 of 2005 and MECR No.1 of 2007.

2) The petitioner is the original complainant. She had filed a private complaint against the respondents No. 2 to 4 bearing CC No. 323/Misc/2005. An offence bearing MECR No.3/2005 came to be registered in pursuance of order passed by the learned Magistrate under section 156 (3) of the Cr.PC. The gravamen of the complaint of the petitioner was that, the respondent no.2 who was her husband, has forged her signatures. He also took advantage of the power of attorney given by her in his favour. The complainant in her complaint itself has admitted that the respondent no. 3 and 4 are only partners of the firm of which the petitioner was also an erstwhile partner along with the respondent no. 2 to 4. The record further discloses that subsequently the petitioner also filed another complaint bearing CC No.400/SW/2010 on the basis of which CR No.1/2007 has been registered with the same police station. It was the contention of the petitioner in the second complaint that her signatures were forged by the respondent no.2 while submitting the income-tax returns and/or accepting the refund from the Income-tax Department. The police investigated both the

complaints jointly and after completion of investigation came to the conclusion that there is no substance in the complaints lodged by the petitioner and submitted a report dated 14.1.2013 in the Court of Addl. Chief Metropolitan Magistrate, 24<sup>th</sup> Court, Borivali, Mumbai for grant of 'C' Summary. It is stated in the said report that, the police received report from the handwriting expert that the signatures and/or writing on the various documents did not tally with the admitted specimen and, therefore, it was difficult to come to the conclusion that the documents were forged. The police have also come to the conclusion that the petitioner did not suffer any loss in the alleged transactions and likewise the accused persons did not get any benefit from it as mentioned in the complaint. The police during the course of investigation have also reached to the conclusion that the transactions entered into by and between the parties were of civil nature and no offence of whatsoever nature is made out.

3) After submission of the Summary report before the concerned Metropolitan Magistrate on 14.1.2013 the petitioner appeared and protested the same by way of filing a detailed

reply. The learned trial Court after taking into consideration the say of the petitioner and after scrutinizing the documents which were placed before it by the police and the petitioner herein was pleased to grant "C" Summary, as prayed by the investigating agency, by its order dated 20.2.2013. The learned Trial Court while accepting the said report has observed that the complainant has filed said complaint against the respondents No. 2 to 4 herein for the offence punishable under sections 406, 418, 420, 465, 467, 468, 471 of the IPC and has failed to prove that, which exact property was entrusted by the complainant to accused persons and in what manner the accused have committed the criminal breach of trust in respect of that property for their own use. The Trial Court has further recorded a finding that the complainant has failed to lead prima facie evidence to show that the accused persons have cheated her with knowledge that they thereby likely to cause wrongful loss to the petitioner, whose interest in the transaction to which the cheating relates. The trial Court further recorded a finding that there is no prima facie evidence available on record to show that the accused dishonestly or fraudulently made, signed,

sealed or executed any document or part of the said document or writing or made any mark denoting the execution of a document with the intention of causing it to be believed that such document or part of a document was made, signed, sealed or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed or executed.

4) The Revisional Court has dismissed the revision confirming the findings recorded by the trial Court. I have perused the entire record annexed to the present petition. It is to be noted here that the Examiner of the Documents, CID, Maharashtra has submitted his opinion about the alleged various documents which are on record. He has stated in his opinion that he was unable to express any definite opinion as regards the identity or non-identity of the writing in English which are marked at various exhibits mentioned in the said report. In view of the reports submitted by the handwriting expert, it is not only difficult but preposterous to hold that the respondents no. 2 to 4 have forged the said alleged documents mentioned in the complaint. After minutely perusing the record

and the orders passed by both the Courts below I am of the opinion that both the Courts below have not committed any error of law and on facts. There is a concurrent finding recorded by both the Courts. The present petition being devoid of any merits is accordingly dismissed.

(A.S.GADKARI, J.)