

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION*

CRIMINAL APPEAL NO. 1281 OF 2002

Shri G.N.Sahakari Pat Sanstha Ltd.,
Gadhinglaj.

.. Appellant

Vs

Shri Sanjay Maruti Vaskoti & Ors.

.. Respondents

None for the Appellant.

Mr.S.V.Gavand – APP, for Respondent - State.

Coram : N.M.Jamdar, J.

Date : 26 July 2017.

P.C. :

This Appeal is filed by the original Complainant, a Co-operative Society. A complaint was filed by the Appellant on 25 June 1996 on ground that the Respondent, who had availed of a loan on 15 February 1994 from the Appellant-Society and had hypothecated the vehicle, did not repay the loan and malafide sought to transfer the hypothecated vehicle, thereby committing an offence under section 422 read with section 34 of the Indian Penal Code.

2. None for the Appellant. On the earlier occasions, the Court had accommodated the Appellant and had adjourned the matter. Since the Appeal is pending since the year 2002 and the incident alleged pertains to the year 1996, with the assistance of the learned Assistant Public Prosecutor, I have gone through the Record and Proceedings.

3. The Respondent-accused is stated to have taken a loan of Rs.35,000/- from the Appellant-Society. He had executed documents in favour of the Appellant-Complainant in respect of hypothecation of the vehicle no.MH-09/9412. It appears that the Appellant-Complainant had also filed a dispute under section 91 of Maharashtra Co-operative Societies Act, 1960 in respect of the said loan transaction and the said dispute was disposed of in August 2001. The learned Magistrate, on the perusal of the record found that the registration book of the said vehicle did not contain any endorsement of transfer of the vehicle in anybody's name and the endorsement of hypothecation still continued. The learned Magistrate was right in differentiating the ambit of criminal prosecution from a civil dispute regarding loan transaction and hypothecation and appreciate the evidence accordingly. There is no error in the view taken by learned Magistrate. Appeal is dismissed.

(N.M.Jamdar, J.)