

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL WRIT PETITION NO. 1427 OF 2003

1. Mr. N. VaghulPetitioners
2. Ravindra Viswasrao Jambhale

Vs.

1. Sachin Pravin Dusane ... Respondents
2. The State of Maharashtra

Mr. F. Sayyed i/b M/s M. K. Ambalal & Co. Advocate for Petitioners.
None for Respondent
Ms. Neeta Jain APP for the State.

CORAM: SMT.SADHANA S.JADHAV, J.

DATED : 6th APRIL, 2017.

JUDGMENT:

1) Heard. Petitioners herein being aggrieved by the order of issuance of process passed by the learned Judicial Magistrate First Class, Wadgaon Maval against the petitioners for offence punishable under section 379 r/w section 34 of the Indian Penal Code in Criminal Complaint No. 130 of 2003, have approached this Court seeking relief of quashing of order of issuance of process.

2) Petitioner no. 1 happens to be the then Chairman of ICICI Bank Ltd and petitioner no. 2. was the Branch Manager of Retail Channels and Liabilities Group of ICICI Bank Ltd. Respondent no. 1 happens to be the original complainant. A complaint has been filed before Judicial Magistrate First Class Wadgaon Maval on 26/05/2003 alleging therein that the complainant who was desirous of purchasing Maruti 800 car, had solicited loan from ICICI Bank. On 31/10/2000 a loan of Rs. 2,18,000/- was sanctioned. That the complainant had given 35 post dated cheques and had deposited an amount of Rs. 1,95,000/- before filing the complaint. According to the complainant, while sanctioning the loan, the officers of the bank had obtained his signature on blank papers and blank forms, the contents of which were subsequently filled in. It is further alleged that on 16/05/2003 at about 9.30 a.m. to 10.00 p.m. accused persons had taken the custody of the bank under coercion. No notice was given. That the car was opened by duplicate key which was with the bank. It is alleged that when the custody of the car was taken, there was a cash of Rs. 30,000/- and golden ornaments worth Rs. 41,000/- and a Panasonic handset of Rs. 6000/- and a car tape recorder worth Rs. 21,000/-. The learned Court upon perusal of the complaint had issued the

process.

3) Petitioners had contended that the original complainant had signed an agreement by which it was agreed between the parties that upon failure to abide by the terms and conditions of the loan agreement, the finance company would be entitled to recover the custody of the said vehicle. It was urged that filing of the complaint is pressure tactics.

4) By an order dated 03/10/2003, Rule was issued and interim relief in terms of prayer clause (C) was granted.

5) Proceedings in R.C.C. No. 130 of 2003 were stayed. It appears from records that on 16/09/2012, the learned Judicial Magistrate First Class Wadgaon Maval has passed the following order.

“Both the parties are absent for several years/months. No any steps has been taken or any application has been furnished on record to proceed with the case further by any of the parties. The advocates of both the parties are also absent. The accused is acquitted U/s. 256 of Cr.P.C. Proceeding is disposed off accordingly”.

ism

6) The order is passed on 16/09/2012. The complainant i.e. respondent no. 2 has not filed any revision/appeal or writ petition challenging the said order. Hence, no further order would be necessary.

7) Upon considering the merits of the matter also, it could not have been said that the petitioners could be held liable for offence punishable under section 379 r/w 34 of the Indian Penal Code. It is in the peculiar facts of this case that the petition is allowed in terms of prayer clause (b).

8) Rule made absolute in the above terms.

(SMT. SADHANA S. JADHAV, J.)