**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**WRIT PETITION NO.2319 OF 2015**

Nandkishor Chandrasen Pawar ... **Petitioner**
V/s.
The State of Maharashtra ... **Respondent**

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Mr.Lokesh D. Zade, Advocate for the Petitioner.

Mr.S.V.Gavand, APP for the Respondent/State.

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**CORAM : A.M.BADAR J.**

**DATED : 19th September 2017.**

**P.C. :**

1 The petitioner/original accused by this petition is challenging the Order passed by the learned Metropolitan Magistrate, 47th Court, Esplanade as well as the revisional Order passed by the learned Additional Sessions Judge, Greater Mumbai rejecting prayer of the petitioner for discharge from Case No.1650/PW/2000 for offences punishable under Sections 406, 465, 467, 468, 471, 474, 420 read with Section 34 of the Indian Penal Code (hereinafter referred as “IPC” for the sake of brevity) registered with Bhoiwada Police Station.

2 Facts in nutshell leading to registration of the criminal case are thus :

The State owned Corporation named Mahatma Phule Backward Class Development Corporation (hereinafter referred to as "MPBCDC" for the sake of brevity) was entrusted with duty to select beneficiaries belonging to Scheduled Castes and Backward Class communities for providing them self-employment. Applications of such persons belonging to Backward Class category used to be scrutinized by the MPBCDC and then those were used to be recommended to the nationalized bank for providing loan. The Corporation – MPBCDC used to provide 50% subsidy for repayment of the loan apart from providing seed capital in business set up by such persons belonging to Scheduled Castes and Backward classes category. It is the case of prosecution that this Scheme meant for people belonging to Backward class category and entrusted for implementation to the Corporation was utilized to siphone all public funds by accused persons including the present petitioner, who was in-charge Accountant with the Corporation at the relevant time.

3 Heard the learned Advocate appearing for the petitioner/original accused. He vehemently argued that as an Accountant, the petitioner was entrusted with the work of only writing cheques and he was not an authority even to sign those cheques. The petitioner was not authorized to select beneficiaries. Cheques were used to be issued in the name of banks and it was purely a clerical work which the petitioner used to discharge. In

submission of the learned Advocate for the petitioner, there is no iota of evidence against the petitioner and statement of Shailaja Vaishnav, Accountant so also that of Laladhar Nagrale, Branch Manager are not reflecting any evidence against the petitioner in respect of commission of alleged offences. The learned Advocate argued that even the trial Court has committed mistake in appreciating statements of witness named Shailaja Vaishnav. So far as Revisional Court is concerned, in submission of the learned Advocate for the petitioner, it has committed error in placing reliance on statement of Liladhar Nagrale which only reflects procedure of working of the Accountant. The learned Advocate for the petitioner further argued that the petitioner is prejudiced because of pendency of this case as he is not getting promotion and he may not get retiral benefits after his retirement in the year 2019.

4 As against this, the learned APP by placing reliance on statement of Shailaja Vaishnav has argued that role of the present petitioner as an Accountant in commission of crime can be inferred from this statement. The learned APP also placed reliance on the statement of Liladhar Nagrale.

5 At the stage of framing of charge mini trial is not permitted. The Court is required to examine whether on considering the material collected by the investigator there are

sufficient ground for framing charge or whether the charge would be groundless. At the stage of framing of charge, the Court is required to evaluate the material and documents on record with a view to finding out if the material collected, taken at its face value, discloses ingredients of commission of alleged offence. The Court is not expected to go deep for assessing probative value of the evidence collected by the Investigator.

6 In the case in hand, it is seen that public funds meant for upliftment of persons belonging to Backward Class category were siphoned of in a systematic manner by the accused persons. The petitioner was holding charge of the post of Accountant. Main accused is a person named Purbia. During investigation, it was found that even documents of bank were written by him in his handwriting. Statement of Ashok Nargolkar shows that majority of beneficiaries were not found to be residing at the address given by them. During investigation, it was also found that majority of bank accounts were immediately closed after withdrawing the amount of subsidy and seed capital.

7 So far as the present petitioner is concerned, he was discharging his work as an Accountant during the period of offence. Shailaja Vaishanv was the regular Accountant, who had availed maternity leave at that time. Her statement reveals that even the person working as Accountant was getting paid for

expediting preparation of cheques in the name of banks towards subsidy. Statement of Liladhar Nagrale, Branch Manager shows that during tenure of the present petitioner cheques for amount of Rs.63,69,875/- were drawn towards subsidy and seed capital. This material collected by the investigator is sufficient to raise strong suspicion against the petitioner in commission of alleged offences and as such, it cannot be said that the charge against him would be groundless.

8 The petition, as such, is devoid of merit and, therefore, dismissed.

9 Considering the fact that the trial is riped for hearing with passage of time, the learned trial Court is requested to expedite the trial and conclude it within a period of one and half year from the date of communication of this Order.

**(A.M.BADAR J.)**