

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1934 OF 2007

Manoj s/o. Naryan Kolhe,
Age 30 years, Occu. Agri. &
Business, R/o. Sarala (B),
Tq. & Dist. Osmanabad

....Applicant.

Versus

1. The State of Maharashtra
Through Police Inspector
Police Station Dhoki
Tq. & Dist. Osmanabad.
2. Managing Director,
Terna Shetkari Sahakari Sakhar
Karkhana Ltd., Terna Nagar,
R/o. Dhoki, Tq. & Dist. Osmanabad.
3. Shrihari s/o. Baliram Gaikwad,
Age 49 years, Occu. Service,
R/o. Terna Nagar, Dhoki,
Tq. & Dist. Osmanabad.

....Respondents.

Mr. M.B. Kolpe and Mr. V.B. Deshmukh, Advocates for applicant.

Mrs. D.S. Jape, APP for respondent No. 1/State.

Mr. V.D. Salunke, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.**

DATED : JUNE 04, 2018.

JUDGMENT : [PER T.V. NALAWADE, J.]

1) The application is filed under section 482 of Criminal Procedure Code (hereinafter referred to as 'Cr.P.C.' for short) for relief of quashing of F.I.R. No. 8/2007 registered against the

applicant in Dhoki Police Station, Tahsil and District Osmanabad.
Both the sides are heard.

2) The F.I.R. is given by one Gaikwad, Chief Agricultural Officer of Terna Shetkari Sahakari Sakhar Karkhana, Dhoki. He has made allegations that the staff of sugar factory had joined hands with some contractors like present applicant and by using particular modus operandi, not creating proper record, huge advance was shown to be given to the contractors for supplying labour force for sugar cutting. Total amount of Rs.85.92 lakh was disbursed under the so called contracts made with the contractors. Most of the contractors did not turn up and there was loss of Rs. 59.09 lakh to the sugar factory. As per the record, there was agreement with present applicant Manoj Kolhe and advance of Rs.1.88 lakh was shown to be given to him.

3) The learned counsel for applicant submitted that the sugar factory had filed complaint under section 138 of Negotiable Instruments Act and allegations, which were made in the complaint were of different nature and on the basis of allegations, which were made in the complaint dated 10.6.2006, no crime could have been registered on the basis of F.I.R. which was given on 16.1.2007.

4) It is true that the allegations made in the private complaint filed under section 138 of Negotiable Instruments Act are little bit different in nature, but they are in respect of subsequent development i.e. giving of the cheque for repayment of the amount. In the F.I.R., there are specific allegations of aforesaid nature and they are not only against the present applicant, but also against some officers of the sugar factory. It is noticed that many times, officers and even persons involved in the management of the factory misappropriate huge amount of sugar factory by creating such record. It is money of the members of the co-operative sugar factory and by using such modus operandi, the persons who are in control, misappropriate the money. Thorough investigation in such cases is necessary as not only the persons who joined hands with the persons working in the factory like present applicant need to be made accused, but also the persons who had used such modus operandi and probably who were in the management and behind curtain also need to be traced. The private complaint filed under Negotiable Instruments Act cannot come in the way of police for making investigation of such F.I.R. The allegations against the present applicant already mentioned are of different nature than that of allegations made in the private complaint.

5) The learned counsel for applicant placed reliance on

some observations made by the Apex Court in the case reported as **AIR 2011 SUPREME COURT 641 [Kolla Veera Raghav Rao Vs. Gorantla Venkateshwara Rao and Anr.]**. Those observations are with regard to section 300 (1) of Cr.P.C. r/w. Article 20(2) of Constitution of India. The circumstances mentioned above show that in the present matter, it cannot be said that making investigation against the applicant and others on the basis of F.I.R. would be hit by the aforesaid provisions. Thus, no relief can be granted to the applicant. In the result, the application stands dismissed. Rule is discharged.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]

SSC/