IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1067 OF 2018

Dipak s/o Vitthal Marathe,
Age: 35 years, Occu : Business
R/o : Vijay Nagar, Nanded Taluka and
District Nanded.

. . . **Applicant (Orig. Accused No.1)**

VERSUS

1. The State of Maharashtra,
through Vazirabad Police Station, Nanded
District Nanded.
(Copy to be served on Public Prosecutor,
High Court of Bombay, Bench at
Aurangabad)

. . . **Respondent**

Mr. Shailendra S. Gangakhedkar for the Applicant.
Mr. M. M. Nerlikar, APP for Respondent - State.

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

DATE: : 4th July, 2018

JUDGMENT (Per K. L. Wadane,J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, the application is taken up for final hearing.

2. This application is filed by the applicant seeking quashment of the First Information Report, C.R. No.102/2017 dated 27.03.2017 registered at Vazirabad Police Station at Nanded for the offence punishable under Section 504, 506, read with Section 34 of the Indian Penal Code and under Section 39 to 46 of the Maharashtra Money Lending (Regulation) Act, 2014 (hereinafter to be referred as “the Act of 2014”) registered at the behest of one Mohammed Pasha Mohammad Noor against the applicant and two other persons.

3. The complainant lodged a complaint to the Police Station alleging that he is running a footwear shop at Nanded. He obtained a loan from the applicant to the extent of Rs.4 lakh and for the security purpose he issued eight blank cheques and bond. Likewise, he obtained loan from another accused Mohammed Siraj and Hemraj Ladda, and for the security purpose, the son of the complainant namely Mateen and his relative Riyaz also gave blank cheque and bond. The complainant obtained a loan @10% interest. It is further contended that the complainant repaid the entire amount to the applicant, still the applicant has not returned the blank cheques and bond. On the contrary, the applicant is demanding more money and has threatened to file a false complaint if the demand is not fulfilled. It is further alleged that the applicant and other accused persons are doing money lending business illegally and they are not recording the entries of the transaction in

the relevant register. On the basis of the first information report, the offence came to be registered against the applicant.

4. We have heard the arguments of Mr. Shailendra S. Gangakhedkar, the learned counsel for the applicant and learned APP, Mr. M. M. Nerlikar for Respondent – State. We have also perused the copies of the documents annexed to this application and papers of investigation.

5. On perusal of the copy of the license issued to the applicant, it appears that the license was issued on 05.08.2009 and it was valid up to 31.07.2010. Further, it appears from the record that subsequently, the applicant has applied for the renewal of money lending license, however, it seems that it was rejected. So from the record, it appears that the applicant was holding money lending license during the period from 05.08.2009 to 31.07.2010 and on perusal of the complaint, copy of the first information report and the statement of the complainant, it appears that the alleged money lending transaction was done in the year 2014. Therefore, it appears that the applicant was not holding valid license for money lending. Further, from the statement of Riyaz Ahmed, it appears that he was the guarantor to the loan advanced by the applicant to the complainant and in the form of guarantee, this witness has given some blank cheque and bond paper as well as the xerox copy of the license of the medical shop and copy of the election card. It further appears from his statement that the applicant was insisting for the repayment of the loan which was already paid to him. From the copies of the

panchanama of the seizure of the article, it appears that three blank cheques were collected by the investigating officer from the applicant and those were seized. In addition to that six diaries were seized from the possession of complainant, wherein, there is a endorsement made by the applicant, his son, and his servant from time to time acknowledging the repayment of loan. All these circumstances are supporting the allegation of the complainant that the applicant was indulging in money lending transaction that to without license.

6. Looking to the relevant provisions of Section 39 to 46 of the Act of 2014, such act of the applicant is punishable under Section 39 of the Act of 2014 i.e. penalty for doing money lending without valid license. As per the provision of Section 24, it is the duty of the person dealing with the money lending transaction to keep and maintain the account of the money lending transaction and its copies and the loan statement are to be supplied to the debtor within a period of 30 days from the date on which the loan is made. Likewise, as per the proviso of Section 25, the yearly statement of account is to be submitted to the concerned Assistant Registrar. Here in the present case, it appears that the applicant has contravened the proviso of Section 24 and 25 of the Act of 2014. So looking to the contents in the first information report, the statement of the complainant and the witnesses, it *prima facie* appears that the applicant was indulging in the money lending transaction illegally without having valid license so also without maintaining proper record.

7. In view of the above, there is sufficient ground to proceed against the present applicant and no case is made out to quash and set aside the first information report against the applicant. There is no substance in the application. It is liable to be dismissed and accordingly, it is dismissed.

(K. L. WADANE, J.) **(T. V. NALAWADE, J.)**

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