

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

Criminal Application No. 2407 of 2010

* Rajendra Ramesh Patil
Age 38 years, Occu : Agriculture,
R/o Savda, Taluka Raver,
District Jalgaon. **.. Applicant.**

Versus

- 1) The State of Maharashtra.
- 2) Pradip Baburao Mahajan,
Age 65 years, Occu: Agriculture
R/o Behind Ram Mandir,
Rozoda, Taluka Raver,
District Jalgaon. **.. Respondents.**

Mrs. Chaitali Kutti, Advocate, for applicant.
Shri. R.V. Dasalkar, Additional Public Prosecutor, for
respondent No.1.

**Coram: T.V. NALAWADE &
K.L. WADANE, JJ.**

Date: 1 AUGUST 2018

JUDGMENT (Per T.V. Nalawade, J.):

- 1) The proceeding is filed under section 482 of the Code of Criminal Procedure for the relief of quashing of proceeding of R.C.C.No.27/2010 which is pending in the Court of the learned Judicial Magistrate, First Class, Raver. Both the sides are heard.

2) The crime was registered on the basis of direction given by the learned Judicial Magistrate to make investigation in a private complaint filed by respondent No.2 Pradip Mahajan. Present applicant Rajendra is shown as accused No.2 in the private complaint. Pradip Mahajan was a member of Savda-Faizpur Nagari Sahakari Pat Sanstha Maryadit Savda and he had kept amount as fixed deposit in the name of his wife in this institution. Particulars of the amount kept are given and it is contended that this amount was Rs.1.57 lakh.

3) The aforesaid institution has appointed the accused No.1 as Special Recovery Officer. There is administrator appointed on this institution due to some irregularities. Allegations are made against accused No.1 that he is favouring some depositors and he has returned their amount only and he has not taken action against the debtors. Names of two persons like Vijay Supdu Pachpande and Supdu Ramu Pachpande are mentioned and it is contended that no action is taken to recover the loan from them.

4) Present applicant, accused No.2 is said to be the President of the association formed by the depositors. Allegations are made against him that he has been helping accused No.1 in the aforesaid irregularities.

5) Even if the allegations made against the applicant are accepted as they are, it can be said that it will not be possible for the prosecution to prove that he got involved in any of the aforesaid irregularities. He is not the employee of the institution and he has no role to play in the recovery. In view of these circumstance this Court holds that it will be abuse of process of law if the applicant is directed to face the trial for the offences mentioned in the private complaint like offences punishable under sections 420, 409, 467, 34 etc. of the Indian Penal Code. In the result, the application is allowed. Relief is granted in terms of prayer clause (B). Rule made absolute in those terms.

Sd/-
(K.L. WADANE, J.)

Sd/-
(T.V. NALAWADE, J.)

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