THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 3690 OF 2007

Veerbhadra Kalappa Pasarge,
Aged 65 years, Occu: Agriculture,
R/o. Mukramabad, Tq. Mukhed,
District Nanded. ... **APPLICANT**

VERSUS

1. The State of Maharashtra,
Through Police Station,
Mukramabad, Taluka Mukhed,
District Nanded.

2. The District Superintendent of Police,
Nanded.

3. The Deputy Superintendent of Police,
Degloor, Taluka Degloor, District Nanded.

4. Avaidha Savkari Taluka Niyantran Samiti,
Mukhed, Through its Chairman,
Tahsildar, Mukhed,
Taluka Mukhed, District Nanded.

5. Namdeo s/o Gyanoba Motewar,
Age 55 years, Occ: Agriculture,
R/o. Lakhmapur, Post: Mukramabad,
Taluka Mukhed, District Nanded. ... **RESPONDENTS**

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Mr. M. D. Narwadkar, Advocate for Applicant.
Mrs. D. S. Jape, APP for Respondent Nos.1 to 4.
Mr. D. R. Jayabhar, Advocate for Respondent No.5.

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

DATE : 26th July, 2018.

<u>JUDGMENT</u>: (Per T. V. Nalawade, J.)

. The proceeding is filed under Section 482 of the Code of Criminal Procedure for relief of quashing of FIR No.23 of 2007, registered with Mukramabad Police Station, District Nanded.

2 Both the sides are heard.

3 The crime is registered on the basis of report given by Respondent No.5 for the offence punishable under Section 32B and 34 of the Money Lending Act. Allegations are made that the uncle of first informant namely Vithal had given land Survey No.2 (Gat No.6) to the extent of 8 Acre by way of mortgage to Applicant, Veerbhadra Pasarge in the year 1971 for the loan of Rs.4,000/-. It is contended that the document like mortgage by conditional sale was executed by the uncle of first informant and the land was to be reconveyed after 5 years by Veerbhadra. It is contended that after 5 years, when readiness was shown by the first informant to pay the loan amount

and when first informant asked the Applicant to reconvey the property, Applicant refused to do so. By making such allegations, the report was given and the crime came to be registered. There is record of litigation between two sides. There is no record to show that the Applicant was doing money lending business. Except the transaction, which is shown to be made with the first informant, no other transaction was made by the Applicant with any person. Whether the transaction was of the nature of loan or whether it was out and out sale can be decided by the Civil Court.

4 The provisions of the Money Lending Act and particularly the aforesaid Section show that the provision of Section 32B will be attracted only when it is shown that the person is carrying the money lending business without valid licence and in that business he enters into agreement. This Court has already observed that there is no record whatsoever to show that with any other person, the present Applicant had any transaction. Thus, it will be abuse of process of law if the Applicant is made to face the trial for the aforesaid offences. In the result, the following order is passed:

<u>O R D E R</u>

I. The application is allowed.

II. Relief is granted in terms of prayer clause (B).

III. Rule is made absolute in those terms.

[K. L. WADANE, J.] **[T. V. NALAWADE, J.]**

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