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

CRIMINAL APPICATION NO. 4435 OF 2007

Kamlakar s/o. Bhagwanrao Ghute,
Age 56 years, Occu. Agriculture,
R/o. working as Managing Director
of the Yashwantrao Mohite Krushna
Sahakari Sakhar Karkhana Ltd.,
Rethre Budruk, Post Shivnagar,
Tq. Karad, Dist. Satara
Pin - 415 108. **....Applicant.**

Versus

The State of Maharashtra,
Through Police Inspector,
Police Station Dhoki,
Tq. & Dist. Osmanabad. **....Respondent.**

Mr. V.D. Salunke h/f. Mr. S.J. Salunke, Advocate for applicant.
Mrs. V.S. Choudhary, APP for respondent/State.

CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.
DATED : JULY 5, 2018.

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

1) The proceeding 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. 177/2007 registered with Dhoki Police Station, District Osmanabad for the offences punishable under sections 420, 467, 471, 34, 120-B etc. of Indian Penal Code (hereinafter referred to as 'IPC' for short). Both the sides are heard.

2) The present applicant was working as Managing Director of Terana Co-operative Sugar Factory, Ternanagar, Osmanabad. He worked there from 10.7.2006 to 30.8.2007. It is his contention that on 30.8.2007 he resigned from the post and so, he was not there after that day. The submissions made and the record show that the election to the Managing Committee of this Sugar Factory was conducted and this was for the period 14.7.2007 to 13.7.2012. The period started from 14.7.2007 and Chairman was also elected on that day. This happened during the aforesaid tenure of the present applicant.

3) As per the provisions of section 73 (a) (b) of the Maharashtra Co-operative Societies Act, 1960 and the Rules framed thereunder, it was necessary for the Board of Directors to submit bonds on stamp paper within 15 days after the first meeting of Board of Directors. The first meeting was held on 14.7.2007 and so, the bonds were to be executed within 15 days from that day and then the intimation was to be sent along with copies of bonds to the Director of Sugar as per the provisions of the aforesaid Act and the Rules.

4) It is the case of first informant that the information was

not given to Joint Director of Director of Sugar and no record was sent to Director of Sugar within 15 days about the bonds which were to be executed by the Board of Directors. It is his contention that subsequently, false record was created to show that bonds were executed within the period of 15 days and they were also sent to the Director of Sugar. The first informant had collected the material like the information collected from treasury office to show that the stamp papers on which the bonds were shown to be written were purchased on 7.9.2007, but the stamp vendor had shown the date of sale as 20.7.2007. It is his contention that as the stamps were not available, it was not possible to submit the bonds and give information to Director of Sugar within prescribed period.

5) The learned counsel for applicant drew the attention of this Court to the copy of letter dated 25.6.2007 sent by Terna Sugar Factory to Director of Sugar. The outward number is mentioned and the applicant is admitting that this letter was signed by him. It was submitted for the applicant that with this letter, he had sent the aforesaid bonds to the Director. When there is such submission of the applicant and there are aforesaid circumstances, it cannot be said that present applicant was not involved in the crime. There is letter of Office of Director of Sugar dated 13.9.2007 produced by the present applicant and it shows that the Director had informed that

there was no compliance of the aforesaid provisions of Co-operative Societies Act and due to that, action was possible against the newly elected Directors. This letter shows that the so called letter allegedly sent by the present applicant on 25.6.2007 was not received by Director of Sugar. The submissions show that subsequently, the incharge Managing Director again sent copies with his letter dated 21.9.2007. These circumstances are sufficient to infer prima facie that the present applicant had joined hands with the Directors and to see that they are protected, he created aforesaid false correspondence dated 25.7.2007. Thus, the provisions of section 120-B of IPC can be used against the present applicant and the other provisions like of forgery also can be used. This Court holds that it is not a fit case to grant the relief claimed. In the result, the application stands dismissed. Interim relief is vacated. Rue is discharged.

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

ssc/