

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

CRIMINAL APPLICATION NO. 3606 OF 2010

- 1) Ashok S/o Maruti Kale,
Aged: 53 years, Occ: Service and
Appointed as Liquidator on
Parner Sahakari Sakhar Karkhana
Ltd. Devibhoyare, Tq. Parner,
Dist. Ahmednagar
R/o Plot No.62, Sanmitra Housing
Society, Ahmednagar,
Tq. & Dist. Ahmednagar.
- 2) Arun S/o Rambhau Thange,
Aged: 42 years, Occ: Service as
Incharge Managing Director of
Parner Sahakari Sakhar Karkhana,
Ltd. Devibhoyare, Tq. Parner,
Dist. Ahmednagar
R/o Tikhol, Tq. Parner,
Dist. Ahmednagar.

... APPLICANTS
(Ori. Accused Nos.2 & 19)

VERSUS

- 1) The State of Maharashtra.
- 2) The Police Inspector,
Parner Police Station,
Tq. Parner, Dist. Ahmednagar.
- 3) Balu S/o Raoji Waral,
Aged: 44 years, Occ: Service & Agri.
R/o. Wadzire, Tq. Parner,
Dist. Ahmednagar.

... RESPONDENTS
(No.3 Ori. Complainant)

...
Mr. V. R. Dhorde, Advocate h/f Mr. P. S. Dighe, Advocate for Applicants.
Mr. R. V. Dasalkar, APP for Respondent Nos.1 & 2.
...

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

DATE : 18th July, 2018.

JUDGMENT: (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.I-103 of 2010, registered with Parner Police Station, Taluka Parner, District Ahmednagar and the order on the basis of which crime was registered of Judicial Magistrate First Class, Ahmednagar passed in Criminal Application No.61 of 2010. The crime is registered for the offences punishable under Sections 406, 420 and 34 of the Indian Penal Code.

2 Both the sides are heard.

3 Private complaint was filed by Respondent No.3. It is the contention of the Complainant that he was working as labour in the sugar factory, Parner Sahakari Sakhar Karkhana Ltd., Devibhoyare. It is his contention that Accused No.2, present Applicant No.1 was

liquidator of this factory and Accused No.19, Applicant No.2 was Incharge Managing Director of the factory. Allegations are made in respect of loan taken by the sugar factory in the year 1998-99. Allegations are made that for the expenses of sugar factory, the sugar factory had taken loan in the names of employees from various banks and the Director Board had passed resolution to see that the loan was repaid by the sugar factory though it shown to be taken in the names of employees. The other Accused persons were Directors of the sugar factory at the relevant time. It is contended that the loan was not returned, not repaid and the financial institutions proceeded against the labour force so the offence is committed by all the Accused under aforesaid Sections of Indian Penal Code.

4 The submissions made and record show that the sugar factory went into liquidation in the year 2004. Initially, the authority under the Maharashtra Co-operative Societies Act, appointed Applicant No.1 Ashok Kale as liquidator. Subsequently, Applicant No.2 came to be appointed as liquidator and that was done in the year 2008. There is record like handing over of charge to these two liquidators.

5 FIR was given on 7th May, 2010 and the disputed transactions were made in the year 1998-99. Thus, even if allegations made in the FIR are considered as they are, allegations are not as against present Applicants. It appears that there is some misconception in the mind of the Complainant that Applicant No.2 was working as Incharge Managing Director when he was appointed as liquidator by the competent authority. As there are no allegations against the Applicants that they had taken loan in the names of employees and they misappropriated that amount, it will be abuse of process of law if the Applicants are directed to face the trial if charge-sheet is filed by the Police. This Court holds that the relief claimed needs to be granted to the Applicants. In the result, the following order is passed:

ORDER

- 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.]