

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

CRIMINAL WRIT PETITION NO. 1091 OF 2016

The Bhusawal People's Co-operative
Bank Ltd., Bhusawal,
Tq. Bhusawal, Dist. Jalgaon
(Under Liquidation)
Through Its Authorized Officer
Dashrath Mukunda Ingale
Age: 58 years, Occu.: Service ..PETITIONER

VERSUS

1. Subhash Dattatraya Patil
Age: Major, Occu.: Service,
R/o Juna Satara, Plot No.2,
Bhusawal, Tq. Bhusawal, Dist. Jalgaon.
2. State of Maharashtra
Through Police Station Yawal,
Tq. Yawal, Dist. Jalgaon. ..RESPONDENTS

WITH

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Bank Ltd., Bhusawal,
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Through Its Authorized Officer
Dashrath Mukunda Ingale
Age: 58 years, Occu.: Service ..PETITIONER

VERSUS

1. Prakash Bhalchandra Patil
Age: 59 years, Occu.: Service,
R/o Shanti Nagar, Bhusawal,
Tq. Bhusawal, Dist. Jalgaon.

2. State of Maharashtra
Through Police Station Yawal,
Tq. Yawal, Dist. Jalgaon. ..RESPONDENTS

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VERSUS

1. Durgadas Pandurang Mahajan
Age: 56 years, Occu.: Service,
R/o Ganesh Puri, Bhusawal,
Tq. Bhusawal, Dist. Jalgaon.
2. State of Maharashtra
Through Police Station Yawal,
Tq. Yawal, Dist. Jalgaon. ..RESPONDENTS

Mr. D.B. Thoke, Advocate for petitioner.
Mr. S.P. Brahme, Advocate for respondent no.1.
Ms. R.P. Gaur, A.P.P. for respondent no.2 - State.

**CORAM : SANGITRAO S. PATIL, J.
DATE : 25th JUNE, 2018**

ORAL JUDGMENT :-

Rule, made returnable forthwith. With the
consent of the learned Counsel for the petitioner and
respondent no.1 and the learned A.P.P., heard finally.

2. These writ petitions have arisen out of the same crime bearing registration no. 31 of 2017 registered with Police Station Yawal, Dist. Jalgaon for the offences punishable under Sections 420, 409, 197, 198 r/w Section 34 of the Indian Penal Code ("I.P.C." for short). Therefore, they are being decided by this common judgment.

3. It is alleged that during the period from 24th September, 2004 to 11th May, 2007, gold loans were sanctioned and disbursed to 48 borrowers of Bhusawal People's Co-operative Bank, Branch Yawal ("the Bank" for short). It was subsequently noticed that the gold ornaments pledged by them were not genuine. It was on the basis of the false and forged valuation reports that those borrowers had obtained loans having total of Rs.1,20,88,560/-. The Managing Director of the bank lodged an F.I.R., on the basis of which the above numbered crime came to be registered.

4. Respondent no.1 (accused no.52) in Criminal Writ Petition no. 1091 of 2016 was serving as a clerk, Respondent no.1 (accused no.50) in Criminal Writ Petition

no. 1092 of 2016 was the then in-charge Branch Manager and Respondent no.1 (accused no. 51) in Criminal Writ Petition no. 1093 of 2016 was serving as a clerk at the relevant time. (These accused – respondents are hereinafter referred to as “the respondents” collectively.) Therefore, these respondents also came to be added as accused persons. They filed applications before the learned Chief Judicial Magistrate, Jalgaon for their discharge of the above mentioned offences on the say that they were not at all responsible for sanction and disbursment of gold loans on the basis of fake ornaments. The gold loans were sanctioned on the basis of the valuation reports given by the authorized valuer of the bank. They had no role to play in accepting the gold ornaments. Their applications came to be rejected by the learned Chief Judicial Magistrate, Jalgaon. Thereafter, they filed Criminal Revision Application nos. 160 of 2012, 161 of 2012 and 175 of 2012 respectively before the learned Additional Sessions Judge, Jalgaon, challenging the orders passed by the learned Chief Judicial Magistrate, Jalgaon. After hearing the respondents and the learned A.P.P. and after considering the facts and

circumstances of the case, the said Criminal Revision Applications came to be allowed and the respondents came to be discharged of the above mentioned offences as per the impugned orders dated 15th November, 2014, 15th November, 2014 and 27th September, 2013 respectively, which are the subject matters of challenge in these Criminal Writ Petitions.

5. The learned Counsel for the petitioner submits that, the respondents were working in the Yawal Branch of the Bank. They cannot be said to be ignorant about the nature of the ornaments which were pledged for obtaining gold loan by 48 borrowers. It was necessary for them to check the ornaments before processing the loan proposals. The respondents were very much involved in the above mentioned offences. According to him, the Revisional Court has wrongly discharged these respondents of the above mentioned offences. He, therefore, prays that the impugned orders may be set aside and the orders passed by the learned Chief Judicial Magistrate, Jalgaon may be revived.

6. The learned Counsel for the respondents strongly opposed these Criminal Writ Petitions. He submits that the respondents were not at all responsible for sanctioning and disbursing gold loans to the borrowers. They simply processed the papers of their loan proposals. The borrowers used to produce the certificates of the authorized valuer of the bank in respect of the gold ornaments proposed to be pledged. It was the duty of the valuer of the bank to verify whether the gold ornaments, proposed to be pledged, were genuine or otherwise. In case any gold ornament was found to be fake, the valuer of the bank was liable to be held responsible. The learned Counsel submits that the Revisional Court has rightly appreciated the facts of the case with reference to the role attributed against these respondents and rightly discharged these respondents of the above mentioned offences.

7. As stated above, respondent no.1 in Criminal Writ Petition no. 1092 of 2016 was the In-charge Branch Manager while respondent no.1 in remaining two criminal writ petitions were the clerks in Yawal Branch of the Bank.

They have come with a specific case that they were subjected to departmental enquiry and after considering the evidence, they have been exonerated of the charges levelled against them in respect of the gold loan transactions, subject matter of the present crime.

8. The learned Counsel for the respondents pointed out to the statement of the authorized valuer of the bank viz. Rajendra Dattatraya Yawalkar, wherein he states that if the gold loan is sanctioned and disbursed to the borrower on the basis of the certificate issued by the valuer and if it is later on transpired that the said gold ornament is fake, the valuer would be responsible. He further states that if the valuer certifies that the gold ornament is genuine, though it was fake, in that event also the valuer would be responsible. The duties assigned to the respondents do not show that they are responsible for verifying whether the gold ornament produced by the borrower is genuine or otherwise. They are assigned the duty of processing the proposals for loans on the basis of the documents produced by them, including the valuation report of the valuer of the Bank. As such, prima facie,

the respondents cannot be said to have facilitated the borrowers to obtain gold loans on the basis of fake gold ornaments. They were subjected to departmental enquiry on the same allegations and have been exonerated. In the circumstances, the Revisional Court cannot be said to have committed any mistake in discharging these respondents of the above mentioned offences. Criminal Writ Petitions are devoid of any substance. They are liable to be dismissed. In the result, I pass the following order :-

ORDER

- (i) Criminal Writ Petitions are dismissed.
- (ii) Rule is discharged accordingly.

[SANGITRAO S. PATIL]
JUDGE