

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1322 OF 2019**

Shri Achyut G. PanditPetitioner
versus
Shri Ajit Hariram Lakhani and anr.Respondents

Mr. Y. H. Muchhala, senior advocate with Mr. Musaddique Momin i/b. Judicare Law Associates, advocate for the petitioner.
Mr. Ajit H. Lakhani, respondent No.2 in person.
Mr. Sudeep Pasbola along with Mr.Bhaves Thakur i/b. Mr.Subir Sarkar, advocate for respondent No.3.

**CORAM : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.**

DATE : 24th JULY, 2019.

P. C. :

Heard Mr. Muchhala, learned senior counsel for the petitioner, Mr. Pasbola, learned counsel for respondent No.3 and Mr.Ajit H. Lakhani, respondent No.2 in person.

2. The petition is filed for quashing of the complaint viz. miscellaneous application No.05 of 2018 pending before the Co-operative Court at Thane. Respondent Nos.2 and 3 are the members of the same Co-operative Housing Society viz. Sainathkripa Co-operative Housing Society Limited. Respondent No.3 was working as Honorary Secretary of the said society. She was suspended from the said post by the Chairman of the said society. Respondent 3 thereafter was constrained to file dispute viz. 68 of 2010 before the Co-operative Court at Thane. This

dispute was partly decreed and suspension order was set-aside by the judgment and order dated 7th October, 2013. Thereafter, there was a dispute between the members of the society regarding operation of bank account of the society. Initially, joint authority was given to respondent Nos.2 and 3 to sign the cheques on behalf of the society. Subsequently, on 15th December, 2011 a resolution was passed by the society entrusting respondent No.3 to solely operate the bank account. Respondent No.2, thereafter, challenged this resolution by filing dispute No.60 of 2012 before the Co-operative Court. In this dispute, it is an allegation of respondent No.2 that respondent No.3 produced a copy of the order dated 21st October, 2011 passed by the Co-operative Court at Thane in miscellaneous application No.92 of 2011. It is the allegation of respondent No.2 that respondent No.3 in collusion with the petitioner, her advocate stole the original copy of the said order and produced a copy thereof on the record of complaint/miscellaneous application No.05 of 2018. In the light of these allegations, the application is filed by respondent No.2 against the present petitioner and respondent No.3 for an action under Section 340 of Code of Criminal Procedure, 1973 (for short "the CrPC").

3. Yesterday, we heard arguments of Mr. Muchhala, learned senior counsel for the petitioner. We also heard respondent No.2 in person. However, he sought time and at his request, the matter was

adjourned today.

3. Today, when the matter was called out, respondent No.2 made a solemn statement that he has no grievance against the petitioner and he shall withdraw the allegations as well as subject complaint under Section 340 of Cr.PC as against the petitioner. The statement is accepted as an undertaking to the Court.

4. Mr. Muchhala, learned senior counsel for the petitioner, having taken instructions from his client who is present before the Court, makes a statement that the petitioner will also not initiate proceedings in this regard against respondent No.2. This statement is also accepted as an undertaking to the Court.

5. So far as respondent No.3 is concerned, she is at liberty to file separate proceedings challenging the maintainability of the complaint filed by respondent No.2 under Section 340 of the Cr.PC..

6. In light of above, since the grievance of the petitioner, no more survives, the petition is disposed off.

7. All concerned to act upon a copy of this order duly authenticated by the Registry of this Court.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]