

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION No. 782 OF 2017

Manisha Brahamanand Poddar

...Petitioner

Versus

The State of Maharashtra

...Respondent

Mr. A.M.Moorthy a/w. Mr.Machhindra Bodke for the Petitioner.

Mr. A.R. Patil, APP for the Respondent -State.

Mr.P.V.Pullarwar, PI, BDDJ, Nagpur City.

CORAM : MRS. MRIDULA BHATKAR, J.

DATE : 07 FEBRUARY 2019

P.C.:

1. Rule. Rule made returnable forthwith. By consent of the parties, the Petition is heard finally and disposed of at the stage of admission.

2. This Petition is directed against the order dated 9th July, 2015 passed by the learned Judicial Magistrate First Class, 8th Court, Thane thereby rejecting the application for discharge below exhibit 25 in R.C.C.No. 1844 of 2013 as well as the order dated 22nd November, 2016 passed by the

learned Addl. Sessions Judge 07, Thane thereby rejecting the Criminal Revision Application No. 174 of 2015.

3. The petitioner/accused is charged under sections 420, 465, 468, 471, 511 read with 34 of the Indian Penal Code in C.R. No. I-182/2013 registered with Bhayander Police Station Rural on 23rd August, 2013. As per the case of the prosecution, one Mr. Sameer Balkrishna Shinde, who is working with Bajaj Finance Company as a supervisor, gave first information report that their company has been cheated for an amount of Rs. 2,91,990/- by the petitioner/accused and co-accused Uday Roy and Smriti Kulkarni. The said company provide finance to the persons who give surety of repayment. The petitioner/accused wanted to purchase one LED TV of Rs. 1,25,000/- and, therefore, she applied for a loan and for that purpose, she submitted electricity bill and pan card. The electricity bill and pan card was submitted by co-accused Uday Roy and he had accepted and received a loan of Rs. 1,25,000/-. By adopting similar method, another loan amounts were obtained by co-accused Uday Roy and Smriti Kulkarni. When the loan amounts were not paid and arrears was increased, the company verified the authenticity of the documents and found that the electricity bill which stand in the name of the petitioner/accused was

forged. The loan amounts were never repaid and the offence of forgery and cheating has been registered against the petitioner/accused.

4. The learned counsel for the petitioner/accused has submitted that co-accused Uday Roy is a main culprit and he had accepted and received the loan amounts and not the present petitioner/accused. He has further submitted that the petitioner/accused is innocent. She is not aware about the forgery and fraud committed by co-accused Uday Roy. He has further submitted that when the petitioner/accused produced before the learned Magistrate, she realised that she is falsely implicated in the present case. He has further submitted that there is no evidence against the petitioner/accused and, therefore, she be discharged. He has prayed that the orders passed by the learned Magistrate and the learned Sessions Judge are to be set aside and quashed.

5. The learned APP while opposing this Petition, has relied on the report given by the Branch Manager, Bank of Maharashtra where the petitioner/accused has opened a bank account with Bhuvaneshwar Branch, Orissa. He has also relied on the correspondence between the police and Reliance Energy Ltd., in respect of truthfulness of the electricity

bill for the purpose of identity of the customer, which was produced for obtaining loan. The electricity bill was used as an address proof. He has pointed out that Reliance Company has communicated in writing that the electricity bill used for the purpose of obtaining loan is fake and bogus. On this address, some other person is residing and not the petitioner/accused. The said electricity bill is fabricated.

6. Considered submissions. Perused impugned orders. Also perused the F.I.R., documents and the correspondence produced before the Court. I am of the view that it is not a case of discharge. The orders passed by the learned Magistrate and the learned Sessions Judge cannot be faulted with. The trial Court may endeavour to start a trial and conclude it within a period of nine months from the receipt of the order of this Court.

7. Hence, Writ Petition is rejected.

(MRIDULA BHATKAR, J.)