

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

CRIMINAL APPLICATION NO. 327 OF 2019

Pandurang s/o. Satappa Kadam,
Age: 36 Years, Occupation: Agriculturist,
R/o.: Chincholi, Arali (BK), Taluka: Tuljapur,
District: Osmanabad

... **APPLICANT**
(Orig. Accused)

VERSUS

- 1] The State of Maharashtra,
Through Police Inspector,
Tuljapur Police Station,
Tuljapur: Taluka, District: Osmanabad.
- 2] Ravindra Jalindar Devkate,
Age: 38 Years, Occupation: Service,
Assistant Co-operative Officer,
Office at:- Assistant Registrar,
Co-operative Societies, Tuljapur,
Taluka: Tuljapur, District: Osmanabad. (Resp No.2 Orig. Informant)

AMENDMENT CARRIED OUT AS PER LEAVE GRANTED BY THE
HON'BLE COURT BY ORDER DATED 29/01/2019

- 3] Satish Gajendra Kshirsagar,
Age: 42 Years, Occupation: Agriculturist,
- 4] Deepak Gajendra Kshirsagar,
Age: 40 Years, Occupation: Agriculturist,
- 5] Rajendra Gajendra Kshirsagar,
Age: 37 Years, Occupation: Agriculturist,

Resp. Nos.3 to 5 All R/o. Chincholi,
Taluka: Tuljapur, District: Osmanabad.

... **RESPONDENTS**

...

Mr. G. V. Patil & Mr. S. V. Suryawanshi, Advocate for Applicant.

Mr. R. V. Dasalkar, APP for Respondent Nos.1 & 2.

Mr. K. K. Kulkarni, Advocate for Respondent Nos.3 to 5.

...

CORAM : **T. V. NALAWADE &
M. G. SEWLIKAR, JJ.**

DATE : 27th February, 2020.

ORAL JUDGMENT: (Per T. V. Nalawade, J.)

. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2 The proceeding is filed for relief of quashing of proceeding of R.C.C. No.16 of 2017, pending in the Court of Judicial Magistrate First Class, Tuljapur, District Osmanabad, for the offence punishable under Section 39 of the Maharashtra Money Lenders Act, 2014. The case is filed in Crime No.264 of 2016, which was registered with Tuljapur Police Station, Tuljapur, District Osmanabad for the same offence.

3 The learned APP made available the record of investigation. It appears that on the basis of complaint given by few persons (three in number), some inquiry was made by the Assistant

Registrar, Co-operative Societies and after the inquiry, he gave report to police and case is filed for the aforesaid offence.

4 The record shows that the so-called transaction, which was conditional sale, was made in the year 2011. In the complaint filed, the original complainants contended that after the period given in the conditional sale document, they had approached the present Applicant and they had paid some amount and some document was also executed to show that the amount was paid. It is contended that some amount remained to be paid, but afterwards the present Applicant refused to act as per the agreement. It is contended that the Applicant has indulged in illegal money lending business.

5 The papers of investigation show that no other transaction was noticed during the investigation. The transaction also took place prior to coming into force of aforesaid special enactment when Section 39 was added to cover such cases. Thus, the transaction is of previous period and not post the aforesaid provision and further it is only single transaction.

6 The learned counsel for Applicant placed reliance on some observations made by this Court in the case reported as

2016 (1) Bom.C.R. 794, (*Mandubai Vitthoba Pawar Vs. State of Maharashtra through Superintendent of Police and others*). In this case, this Court has considered the aforesaid aspects and this Court has laid down that when it is single transaction, inference cannot be drawn that the person was doing money lending business. Reliance is also placed on some observations made in other case reported as 2018(3) Mh.L.J. (Cri.) 795, (*Baliram s/o Ashroba Kadape and others Vs. State of Maharashtra and others*) decided by this Court in which similar observations are made. In view of the aforesaid position of law and present facts, this Court holds that it will be abuse of process of law if the Applicant is directed to face the trial for aforesaid offence. 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. Name of the district is to be corrected, which is wrongly mentioned as Aurangabad in the application.
- IV. Rule is made absolute in those terms.

[M. G. SEWLIKAR, J.]

[T. V. NALAWADE, J.]