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

CRIMINAL APPLICATION NO. 999 OF 2020

01 Shriram City Union Finance Ltd., a company registered under Companies Act, 1956 having Regd. Office at-123, Angappa Naicken Street, Chennai, 600001 TN. representing through its GPA Holder Rakesh Kishor Yewale, Age 31 years, Occu- Service.

02 Subramaniam Krishnamurthy, Age 81 years,

03 Vekataraman Murali, Age 61 years,

04 Ranvir Dewan, Age 75 years,

05 Chitta Ranjan Dash, Age 56 yeas,

06 Vipen Kapur, Age 74 years,

07 Duruvasan Ramachandra, Age 58 years,

08 Pranab Prakash Pattanayak, Age 71 years,

09 Debendranath Sarangi, Age 67 years,

10 Shashank Singh, Age 44 years,

11 Maya Swaminathan Sinha, Age 60 years,

12 Gerrit Van Heerde Lodewyk, Age 58 years,

13 Ramasubramanian Chandrasekar, Age 57 years, No. 2 to 4 and 6 to 12 are alleged Directors of No 1 Company. Address of applicants No 2 to 4 and 6 to 12 is the same that of the applicant No 1 Company.

14 Gous Mohiddin Jilani, Age 52 years, Occ- Executive Director of No.1 Company, R/O- Angappa Naiken Street, Madras Greater Chennai, Tamilnadu, India.

15 Jitendra Ramesh Chavhan, Age 28 years,
Occu- Service as a Branch Manager,
Posted at Jalgaon Branch Office.

16 Nitin Sanjay Gaikwad, Age 30 years,
Occ- Service as a Recovery Officer of No 1 Company,
serving at its Nasik Branch Office, R/O- House No 4002-B,
Amardham Road, Old Kumbharwada, At & PO- Nasik.

17 Rakesh Kishor Yewale, Age 31 years,
Occu- Service as a Legal Manager of No 1 Company,
posted at Jalgaon Branch Office.

18 Atul Chandrasen Sanyasi, Age 42 years,
Occ- Service as a senior Legal Officer of No 1 Company,
posted at: Dhule Branch Office, Dhule, MS.

19 Smita Sunil Shirkar, Age 43 years,
Occu- Service as Zonal Manager of No 1 Company,
posted at Mumbai Br., R/O- House No 100, Vadala,
Mumbai, MS.
Applicants No.15 & 17 – office at: 1-6A wing, First Floor,
Vitthal Shopping Complex, Near Omkareshwar Temple,
119 Jay Nagar, Jalgaon, Dist- Jalgaon. MS.

... **APPLICANTS**

VERSUS

01 The State of Maharashtra,
Through PS In-charge,
Amalner Police Station, Amalner,
Dist-Jalgaon. MS.

02 Subhash Pandit Shipmi,
Age- 43 Years, Occu- Business,
R/O- Surabhi Colony, Amalner,
Dist- Jalgaon. … **RESPONDENTS**

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Mr. Vinod Y. Bhide, Advocate for Applicants.

Mr. K. S. Patil, APP for Respondent No.1/ State.

Mr. N. R. Suryawanshi, Advocate for Respondent No.2.

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

DATE : 14th August, 2020.

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 FIR No.57 of 2020, registered with Amalner Police Station, District Jalgaon for the offences punishable under Sections 406, 409, 420, 471, 34 etc. of the Indian Penal Code.

3 The crime is registered on the basis of report given by Respondent No.2. In the FIR, he has contended that he is an illiterate person and he can only sign. It is his contention that in the year 2014, he wanted to make construction on his plot by developing the plot and so he had applied for loan to finance company namely Shriram City Union Finance Limited, Jalgaon. It is his contention that the loan of Rs.30,00,000/- was sanctioned to him and the interest at the rate of 13.42% was payable by him. It is contended that documents were not

shown to him and his signatures and signatures of sureties were obtained on many documents and 63 blank cheques signed by him were collected from him. It is contended that Plot No.6 out of Gat No.1401 of Amalner was taken as surety for the loan.

4 It is his contention that on record the loan of Rs.35,00,000/- was shown but the amount of Rs.34,64,367/- was given to him and the interest was shown as 22.42%. He has contended that many installments were recovered from him and he was deceived. He has given many instances of crediting the amount paid by him in the interest account and the principal amount account and on that he has expressed the grievance. It is his contention that excess interest was recovered from him and when he had paid Rs.16,37,000/-, the amount was not properly shown in the account. It is contended by him that he then realized that the finance company was in the habit of creating such false record and at Karad in one police station, crime was registered against this finance company for not following the directions given by the Reserve Bank of India.

5 It is the contention of the informant that behind his back, arbitration proceeding was conducted against him and order was obtained and this is the *modus-operandi* used by the finance

company in almost all the cases. He has made allegations against the finance company and its directors and persons from management that they have created false record against him and they have deceived him. The FIR was given on 12th February, 2020.

6 The record produced and submissions made by both the sides show that there was loan agreement and under that agreement loan was taken by the informant from Applicant, finance company. Copy of loan transaction, which includes mortgage document, promissory note document etc. are on record. There is also copy of account statement. There is copy of award delivered by the Arbitrator as dispute was taken to Arbitrator as per the agreement by finance company. The award delivered on 9th September, 2017 has become final. For execution of award, Regular Darkhast No.124 of 2018 is filed in the Court of Civil Judge Senior Division, Amalner and that proceeding is going on.

7 It appears that in aforesaid execution proceeding, the informant filed application bearing Miscellaneous Application No.99 of 2019 and he requested to make inquiry into the aforesaid irregularities, which are mentioned in FIR. On this application, the Civil Court made order after hearing on 17th February, 2020 and this

objection application came to be rejected. It can be said that as the award delivered by the Arbitrator has become final, the informant started playing tactics like filing objections in execution proceeding and he approached police with similar contentions. Now the Civil Court had decided that there is no substance in aforesaid allegations made by the informant.

8 The learned counsel for Applicants submitted that FIR needs to be quashed otherwise it will be misuse of process of law in view of the aforesaid circumstances. He placed reliance on observations made by the Apex Court in the case reported as ***2020 (2) MLJ (Cri) 54*** [Criminal Appeal No.377 of 2020 (Arising out of SLP (Criminal) No.5701 of 2019], (*K. Virupaksha and Ors. Vs. State of Karnataka and Ors.*) decided on 3rd March, 2020. The Apex Court after discussing the facts of the case, allowed the proceeding of the accused and quashed and set aside the criminal proceeding. Some other reported cases were also cited by the learned counsel for Applicants like ***AIR 2010 Supreme Court 3624***, (*Kishan Singh (D) through L. Rs. Vs. Gurpal Singh and Ors*) and ***2015 STPL 158 Bombay***, (*Mr. Khan Hasib Ibrahim Vs. Mr. Suresh Haribhau Kapare & Ors.*) In all these cases, the Apex Court and this Court have laid down that when there is dispute of civil nature, the Court should

interfere and direct the parties to go to Civil Court instead of taking recourse of criminal action. Facts of present matter are more in favour of Applicants as they are having the decision of Arbitrator in their favour. In view of all these circumstances, this Court holds that the application needs to be allowed. In the result, the following order is passed:

O R D E R

I. The application is allowed.

II. Relief of quashing and setting aside the FIR as claimed in prayer clause (B) is allowed.

III. Rule made absolute in those terms.

[M. G. SEWLIKAR, J.] **[T. V. NALAWADE, J.]**

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