IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Criminal Writ Petition No.985 OF 2019

* Shivaji Nagari Sahakari Bank Ltd.
Paithan, Taluka Paithan,
District Aurangabad
Through its Head of Loan Department
Sudhakar s/o Jijarao Shinde,
Age 50 years,
Occupation : Service as
Loan Section In charge, Paithan,
District Aurangabad. .. **Petitioner.**

Versus

1) The State of Maharashtra,
Through its Principal Secretary,
Home Department, Mantralaya,
Mumbai – 32.

2) The Commissioner of Police,
Mill Corner, Aurangabad,
Taluka & District Aurangabad.

3) The Police Inspector,
Police Station, Satara,
Satara Parisar, Aurangabad
Taluka & District Aurangabad.

4) Sanjay s/o Bhikaji Salve,
Age 47 years,
Occupation: Business,
R/o Plot No.20, Peshve Nagar,
Ai Niwas, Gut No.92,
Satara Parisar, Beed Bye Pass,
Aurangabad, District Aurangabad. .. **Respondents.**

Shri. M.S. Karad, Advocate, holding for Shri. S.S. Thombre, Advocate, for petitioner.

Smt. D.S. Jape, Additional Public Prosecutor, for respondent Nos.1 to 3.

Shri. R.O. Awasarmol, Advocate, for respondent No.4.

Coram: T.V. NALAWADE &
M.G. SEWLIKAR, JJ.

Date: 10 FEBRUARY 2020

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

1) Rule. Rule made returnable forthwith. Heard both sides by consent for final disposal.

2) The present proceeding is filed for giving direction to the police to see that crime is registered on the basis of applications given to police by the bank on 14-9-2018, 9-10-2018 and 12-6-2019. This Court has carefully gone through the contents of those applications given to police and other record. It appears that the petitioner bank had given hypothication loan to respondent No.4 Sanjay Salve and entry of the loan amount was made in the R.C. book also. Respondent No.4 gave an application

before the R.T.O. and he requested for removal of that entry from the R.C. book That was done in the year 2018 as along with that application a photo copy of the No Objection Certificate was annexed. In that photo copy it was mentioned that the loan had come to an end and the contract was terminated. By way of precaution the R.T.O wrote to the petitioner bank and asked to confirm as to whether certificate was issued or not. After that the petitioner bank realised that some false record was created and then the bank approached the police. Police recorded statement of the respondent, debtor and he informed that he had given the vehicle to a person for use but that man did not return that vehicle. In view of statements made by the learned counsel for the petitioner and the learned counsel for respondent No.4, this Court had passed order dated 27-9-2019. Submission was made by the learned counsel for respondent No.4 that he will make payment of the loan amount. Today the submission made by the learned counsel for the petitioner bank shows that not a single pie is deposited by the respondent No.4 and his contention before police was of the aforesaid nature.

3) Admittedly the no objection certificate was not issued by the bank but such document was made created and used and subsequently the vehicle was also not found with the respondent. All these circumstances show that there was intention to deceive the creditor and with that intention the aforesaid steps were taken by the respondent No.4. When the application is given to police of aforesaid nature and there is record of the aforesaid nature, it is the duty of the concerned police station to register crime. It is a cognizable offence but no crime as such is registered and nothing was communicated in respect of the aforesaid correspondence.

4) In view of all these circumstances the petition is allowed. Direction is given to the concerned police station to register the crime on the basis of the aforesaid record the applications given in the police station. Rule is made absolute in those terms.

Sd/- Sd/-
(M.G. SEWLIKAR, J.) **(T.V. NALAWADE, J.)**

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