

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****CRIMINAL APPLICATION NO. 2719 OF 2018**

Kashinath Shrimant Kshirsagar,
Age : 40 Years, Occ. Business,
R/o. Honal Tq. Tuljapur
and District Osmanabad at present
Saisagar nakathe Wasti,
Rahatani Pune 17

.. APPLICANT

VERSUS

1. The State of Maharashtra,
Through Tuljapur Police Station,
Dist. Osmanabad
2. Prashant Laxman Sahapurkar,
Age : 53 Years, Occ. Assistant
Registrar, Co-operative Societies,
Tuljapur Dist. Osmanabad

.. RESPONDENTS

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Advocate for the Applicant : Mr. V.V. Ingale
A.P.P for Respondent No.1 : Mr. M.M. Nerlikar
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CORAM : T.V. NALAWADE AND
M. G. SEWLIKAR, JJ.
DATE : 12.03.2020.

JUDGMENT (PER T.V. NALAWADE, J) :-

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

2. Present proceeding is filed for relief of quashing of FIR No. 225 of 2018 registered with Tuljapur Police Station, District Osmanabad for the offence punishable under Section 39 of The Maharashtra Money-lending (Regulation) Act, 2014.

3. The relief is also claimed of quashing and setting aside the *charge sheet* No. 97 of 2018 filed in the Court of learned Judicial Magistrate (F.C.) Tuljapur in aforesaid crime.

4. The crime was registered on the basis of report given by respondent No.2 Prashant Laxman Shahapurkar who was working in the Co-operative Department as Assistant Registrar of the Co-operative Society. One Saudagar Sapkal had given complaint against the present applicant that he was doing money lending business illegally and in that business he had made transaction of purchase of the land of the informant. Enquiry was made by the officers and on the basis of transactions made with the informant the report came to be given and crime came to be registered.

5. The submissions made and record show that the informant had executed a registered sale deed in favour of the present applicant in the year 2013 of portion of land having area of 76 R portion from Gat No. 22 for consideration of Rs. 2,50,000/-. Then, in the year 2014 (on 24.03.2014) sale deed in respect of 36 R portion more from the same gat number was executed for consideration of Rs. 1,40,000/-. Thus, two sale

deeds were executed in favour of the applicant but they were executed prior to the date of coming into force of provision of Section 39 of the Money Lending Act. The provision came into force on 25.06.2014. It appears that one agreement was executed by the applicant in favour of the informant on 10.05.2013 and under that agreement he had agreed to return the land if the consideration of Rs. 4.05 lakh was given. This document was also executed prior to the date of coming into force of provision of Section 39 of the Money Lending Act. Due to the circumstance that the transactions were of pre 25.06.2014 and the transactions were only with one person, this Court holds that it will be abuse of process of law if the applicant is directed to face the trial for aforesaid offence. It can be said that to avoid the liability to return the amount, the criminal action is preferred by the informant. In the result, following order :-

ORDER

- I. Application is allowed.
- II. Relief is granted in terms of prayer clause "B" and 'B1'.
- III. Rule made absolute in those terms.

(M.G.SEWLIKAR, J.)

(T.V. NALAWADE, J.)