IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

967 CRIMINAL APPLICATION NO.1132 OF 2020

VIPULCHAND NIRMALKUMAR KANDI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

Mr. V.B. Garud, Advocate for the applicants.
Ms. P.V. Diggikar, A.P.P. for respondent No. 1.
Mr. B.M. Waghmare, advocate for respondent nos. 2 and 3.
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CORAM : **SUNIL P. DESHMUKH AND N.B. SURYAWANSHI, JJ.**

DATE : 16-09-2021.

ORDER :

1. This application filed under Section 482 of the Code of Criminal Procedure, seeks quashing of the charge-sheet and proceedings of R.C.C. No. 1559/2012 for the offences punishable under Sections 420, 467, 468, 406 read with Section 34 of the Indian Penal Code, pending in the Court of 8th Judicial Magistrate, First Class, Aurangabad.

2. The applicants are the Directors of Adarsh Mahila Nagari Sahakari Bank Limited, Aurangabad. Pursuant to a private complaint filed by respondent Nos.2 and 3 bearing Criminal M.A.No.531/2011, F.I.R. in question was registered under directions of the trial Court. It short, it is alleged in the F.I.R. that all the applicants / accused persons, in collusion, prepared forged documents and though a loan of Rs.25,000/- was obtained by

respondent Nos.2 and 3, in the record it was shown that a loan of Rs. 1,25,000/- was paid to respondent Nos.2 and 3. Two cheques kept by respondent No. 3 as security of Rs. 50,000/- were encashed. The employees of the Bank then went to the house of respondent Nos.2 and 3 for recovery of outstanding loan of Rs. 4,45,139/- and obtained a cheque of Rs. 2,20,000/- from them. Thus, it is alleged that the applicants have committed criminal breach of trust and forgery.

3. Though charge-sheet is filed on 22.08.2012 and the case is numbered before the trial Court, for the first time summons were served on the applicants in the year 2021. Thereafter immediately they have approached this Court for quashing of the proceedings.

4. It appears from the record that respondent Nos.2 and 3 have repaid their outstanding loan in the year 2013 and No Dues Certificate is already issued in their favour by the Bank.

5. Perusal of the charge-sheet indicates that the matter arises out of civil dispute and the material collected during investigation is not sufficient to frame charge under Sections 420, 467, 468, 406 of the Indian Penal Code.

6. The parties have amicably settled their dispute outside the Court. Affidavit to that effect is filed by the first informant / respondent No.2 stating that the monetary dispute between respondent Nos.2 and 3 and the said Bank is settled. The entire loan is repaid to the Bank and No Objection Certificate to that effect

is issued by the Bank in favour of respondent Nos.2 and 3. On the basis of No Objection Certificate, charge of the bank was removed from the revenue record of the property mortgaged by respondent Nos.2 and 3. Respondent Nos.2 and 3 therefore averred that they have no objection if the prosecution against the applicants is quashed.

7. Since the civil dispute is amicably settled between the parties and taking into consideration the fact that the F.I.R. and the material collected during investigation do not make out ingredients of Sections 406, 420, 467, 468 read with Section 34 of the Indian Penal Code. In view of the ratio of ***Gian Singh vs. State of Punjab, (2012) 10 SCC 303***, we are inclined to allow the present application.

8. In the result, Criminal Application is allowed in terms of prayer clause “B”. Accordingly, the F.I.R. at Crime No.M-5/2011 for the offences punishable under Sections 420, 467, 468, 471, 406 read with Section 34 of the Indian Penal Code registered with Cidco Police Station, Aurangabad and proceedings pursuant to the same bearing R.C.C. No. 1559/2012, are quashed and set aside.

(N.B. SURYAWANSHI, J.) **(SUNIL P. DESHMUKH, J.)**

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