

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO.384 OF 2021

1. Sunil S/o. Namdeo Patil,
Aged about - 57 Yrs., Occ.: Private,
R/o. Ambedkar Chowck, Indora,
Nagpur. Mob. No.9373043381.
2. Ravi S/o. Keshav Moundekar,
Aged about 39 Yrs., Occ.: Private,
R/o. Lalganj, Khairipura,
Mehandi Bag Road,
Behind Dhage Flour Mill, Nagpur.
Mob. No. 8421323284.

....PETITIONERS

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1. The State of Maharashtra,
Through the Secretary,
(Home Department), Mantralay,
Mumbai – 32.
2. The Commissioner of Police,
Nagpur Division, Nagpur,
Civil Lines, Nagpur.
3. The Police Inspector,
Police Station Panchpaoli,
Dist. Nagpur.
4. The President,
Manjushri Sahkari Pat Sanstha,
Maryadit, Nagpur,
Lalganj, Raut Chowk, Itwari Road,
Nagpur.

.... RESPONDENTS

Shri Ashwin Wasnik, Advocate for Petitioners.
Shri V. A. Thakare, A.P. P. for the Respondents/State.

**CORAM : V. M. DESHPANDE AND
AMIT B. BORKAR, JJ.**

DATE : 03.09.2021.

ORAL JUDGMENT : [PER: AMIT B. BORKAR, J.]

1. Heard.

2. Rule. Rule made returnable forthwith.

3. By this writ petition under Article 226 and 227 of the Constitution of India, the petitioner is seeking direction against the respondent Nos.1 to 3 for registration of the offence against the office bearer of the respondent No.4 – Society.

4. The petitioners are the members of the respondent No.4 – Co-operative Credit Society. Petitioners are the members amongst others who have kept fixed deposit with the respondent No.4 – Society. It is stated that due to mismanagement and malfunctioning of the Managing Committee of the respondent No.4 – Society, the respondent No.4 are not paying fixed deposit amount of the petitioners. It is stated that the respondent No.4 has its approximate 400 to 500 customers involving amount of Rs. 70,00,000/-. It is stated that though the petitioners have filed various complaints with the respondent Nos.1 to 3, no cognizance of their complaints were taken by the respondent Nos. 1 to 3. The petitioners are therefore, constrained to approach this Court by way of the present petition.

5. This Court on 22.06.2021 issued notice to the respondents. The respondent No.3 has filed reply stating that on 18.01.2020 the respondent No.3 – Police Station has received complaint dated 08.11.2019 for enquiry. It is stated that the Head Constable of the Police Station by taking entry No.526/2018 on 05.09.2021 visited the Hospital wherein one Ravi Moundekar was taking treatment. It is also stated that the petitioners have made complaint to the office of the Commissioner of Police, Nagpur on 31.03.2021 and the said complaint has been assigned to the Police Constable Rajendra Dhundale. It is also stated that during the course of the investigation, it is observed that the issue is pending with Joint-Registrar, Co-operative Societies (City-2), Nagpur in relation to audit of the said Society. It also appears that the Authorities under Co-operative Societies Act are taking action under Section 88 of the Maharashtra Co-operative Societies Act, 1960.

6. We have carefully considered the averments in the present petition. We have also scrutinised the complaint filed by the petitioners with the Commissioner of Police. On scrutiny of the averments in the petition and the reply filed by the respondent No.3, it appears that the respondent No.4 – Society is not able to refund the fixed deposits of the persons like the petitioners. It also appears from the reply filed by the respondent No.3 that the Managing Committee of respondent No.4 – Society had

mismanaged the affairs of the Society and therefore, the enquiry under Section 88 of the Maharashtra Co-operative Societies Act 1960 is contemplated by the Authorities under the Co-operative Societies Act. In addition to the enquiry under Section 88 of the Maharashtra Co-operative Societies Act, we are satisfied that in the facts and the circumstances of the present case, the respondent No.3 shall register the offence against the Managing Committee members of the respondent No.4 – Society as the allegations in the complaint and in the petition disclose *prima facie* commission of the offence by the Managing Committee members of the respondent No.4 – Society.

7. We, therefore, pass following order :

i. The Writ Petition is allowed.

ii. The respondent No. 3 is directed to register offence against the Managing Committee Members of the respondent No.4 – Society responsible for mismanagement of the Society and shall carry out the investigation as according to law.

8. Rule is made absolute in the above terms. Pending application(s), if any, stand(s) disposed of.

JUDGE

JUDGE