

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH: NAGPUR

CRIMINAL APPLICATION (APL) NO. 808 OF 2018

Archana w/o Murlidhar Nalamwar
alias Archana Tammewar,
Aged about 52 years,
Occupation : Service,
R/o. 94, Sarkar Nagar, Mul Road,
Chandrapur, Distt. Chandrapur. . . . **APPLICANT**

...V E R S U S...

- 1] State of Maharashtra,
Through Police Station Officer,
Police Station, Gondpipri,
District - Chandrapur.
- 2] Rajaram s/o Tukaramji Bhadke,
Aged : 65 years, Occ. Manager,
Chandrapur District
Magaswargiya Nagari Sahkari Pat
Sanstha Ltd., Chandrapur,
R/o. Sanjay Nagar Mul Road,
Chandrapur, Tq. and District -
Chandrapur. . . . **NON-APPLICANTS**

Ms. Astha Sharma, Advocate h/f Shri P. R. Agrawal, Advocate for Applicant.

Ms. Mayuri Deshmukh, A.P.P. for Non-applicant No.1/State.

Ms. Divya Joshi, Advocate h/f Shri S. V. Sirpurkar, Advocate for Non-applicant No.2.

**CORAM:- Z. A. HAQ AND
 AMIT B. BORKAR, JJ.**

DATED :- 20.01.2021

ORAL JUDGMENT (PER: AMIT B. BORKAR, J.) :-

1. Rule. Rule is made returnable forthwith.
2. This is an application under Section 482 of the Code of Criminal Procedure challenging the First Information Report bearing No.339/2017 dated 15.06.2017 registered with the Non-applicant No.1 – Police Station for the offences punishable under Section 408, 409 and 420 read with Section 34 of the Indian Penal Code.
3. The First Information Report came to be registered against the applicant with the accusations that the applicant on 07.10.1991 created false voucher in the name of the Chief Office at Chandrapur and misappropriated amount of Rs.49,000/-. The Manager of the Co-operative Credit Society, Chandrapur, wherein the applicant was working, filed a complaint with the non-applicant No.1-Police Station on 15.06.2017. The impugned First Information Report has been registered on the basis of said complaint. It is stated in the said complaint that the delay caused in filing of complaint was due to delay in carrying out audit. It is stated that the audit was carried out on 30.03.2015 and enquiry was carried out by the Deputy Registrar, Co-operative Credit Society, Chandrapur under Section 98 the Maharashtra Co-operative Societies Act. The applicant has therefore, filed the present application.

4. This Court on 05.09.2018 issued notice for final disposal and directed the non-applicants not to file the charge-sheet until further orders. In pursuance of the notice issued by this Court, the non-applicant No.1 has filed reply. It is stated in the reply that the First Information Report has been registered on the basis of complaint of concerned Co-operative Credit Society which alleges that the applicant alongwith three other persons have committed misappropriation in the financial year of April 1991 to March 1992 and has misappropriated an amount of Rs.66,695.70. It is also, stated in the reply that the applicant was working in the said society from 12.09.1991 till 07.03.1992. It is therefore, prayed that the Criminal Application deserves to be dismissed.

5. We have considered the allegations in the First Information Report. The principal accusations against the applicant is that on 07.10.1991 she had misappropriated the amount of Rs.49,000/- by creating false voucher in the name of Chief Office at Chandrapur.

6. We have carefully considered the contents of the First Information Report. After meaningful reading of the First Information Report and the reply filed by the non-applicant No.1, we are satisfied that there is an unexplained delay of more than 25 years in filing the

First Information Report against the applicant. The material produced on record shows that the concerned Co-operative Credit Society has already filed dispute under Section 91 of the Maharashtra Co-operative Societies Act, 1960 for recovery of amount against the applicant and others. The delay in registration of the First Information Report assume importance in the context of provisions of Section 81 of the Maharashtra Co-operative Societies Act, 1960 which requires that the audit of the society needs to be carried out every year. The said responsibility is statutory responsibility as on the Society and the concerned officials of Co-operative Department. It has not been explained as to whether the audit of society for the year 1991-92 has taken place earlier or not.

7. Taking into consideration the considerable delay of 25 years and taking into consideration the nature of accusations against the applicant, we are satisfied that continuance of the proceedings against the applicant is amount to abuse of process of Court.

8. We are therefore pass the following order.

The First Information Report bearing No.339/2017 dated 15.06.2017 registered with the Non-applicant No.1 – Police Station for the offences punishable under Section 408, 409 and 420 read with Section 34 of the Indian Penal Code is quashed and set aside.

9. Rule is made absolute in the above terms. No order as to costs.

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