

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 357 OF 2022

PRAKASH POPATRAO SHETE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Patil Jiwan J.
Public Prosecutor for Respondent Nos. 1, 3 & 4 : Mr. D. R. Kale
ASG for Respondent No.2 : Mr. A. G. Talhar

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CORAM : C. V. BHADANG AND
BHARAT P. DESHPANDE, JJ.
DATED : 8 JUNE 2022

PER COURT:-

Heard learned counsel for the parties for some time.

2. The petitioner, who is a Member of Shri Sant Nagebaba Multistate Co-operative Urban Credit Society Limited, Ahmednagar (for short, "Society"), has filed this petition *inter alia* seeking an order in the nature of writ of *mandamus* directing the respondent authorities to register a crime against the concerned persons under the provisions of the IPC and the Maharashtra Protection of Interest of Depositors (In Financial Establishments)

Act, 1999 as well as the Prevention of Money Laundering Act, 2002.

3. According to the petitioner, the concerned officers of the Society have entered into a criminal conspiracy, thereby causing misappropriation of an amount in excess of Rupees ten crores.

4. Perusal of the record shows that by an order dated 27 April 2022, this Court has permitted the petitioner to file a complaint to the concerned police station i.e. Sonai Police Station, District Ahmednagar. Accordingly, the petitioner filed a complaint before Sonai Police Station on 29 April 2022. The Assistant Police Inspector (API) of the concerned police station, by a communication dated 10 May 2022 has refused to register an offence on the ground that the complaint does not disclose any cognizable offence.

5. Learned counsel for the petitioner has taken us through the record and has submitted that although Gat No. 155/30 of Village Shingnapur, Taluka Newasa, District Ahmednagar is standing in

the name of the State Government, the same has been shown to be mortgaged in favour of the Society in respect of a loan of Rupees seven crores by showing the said land in the name of Mr. Jaynarayan Kale, who is a guarantor to the said transaction.

6. Learned Public Prosecutor and the learned counsel appearing for the Society have submitted that the complaint does not disclose any cognizable offence and rightly no offence is registered.

7. We have carefully considered the rival circumstances and the submissions made. We find that the petitioner, if aggrieved by the communication dated 10 May 2022, can take recourse to appropriate remedy before the learned Magistrate and if so advised. In such circumstances, we decline to entertain the petition which is accordingly disposed of. Needless to mention that it would be open to the petitioner to take recourse to the appropriate remedy before the Magistrate for a direction to register an FIR/crime as may be available in law and if so advised. We make it clear that we have not examined the merits of the rival contentions.

8. The amount of Rupees one lakh deposited before this Court along with interest, if any, shall be returned to the petitioner.

BHARAT. P. DESHPANDE, J.

C. V. BHADANG, J.

vrc