

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

916 CRIMINAL WRIT PETITION NO.1014 OF 2022

- 1 Pramod Bhaichand Raison,
Age 57 yrs.,
R/o 210, Baliram Peth,
Near Tahsil Office, Jalgaon,
A/p Talegaon, Tq. Jamner,
Dist. Jalgaon.
- 2 Dilip Kantilal Choradia,
Age 54 yrs.,
R/o A/p Talegaon, Tq. Jamner,
Dist. Jalgaon.
- 3 Motilal Omkar Jiri,
Age 52 yrs.,
R/o A/p Talegaon, Tq. Jamner,
Dist. Jalgaon.
- 4 Surajmal Bhabhutmal Jain,
Age 53 yrs.,
R/o A/p Talegaon, Tq. Jamner,
Dist. Jalgaon.
- 5 Dada Ramchandra Patil,
Age 69 yrs.,
R/o A/p Talegaon, Tq. Jamner,
Dist. Jalgaon.
- 6 Bhagwat Sampat Mali,
Age 66 yrs.,
R/o A/p Talegaon, Tq. Jamner,
Dist. Jalgaon.
- 7 Rajaram Kashinath Koli,
Age 50 yrs.,
R/o A/p Talegaon, Tq. Jamner,
Dist. Jalgaon.

- 8 Bhagwan Hiranman Wagh,
Age 63 yrs.,
R/o A/p Talegaon, Tq. Jamner,
Dist. Jalgaon.
- 9 Dr. Hitendra Yashwant Mahajan,
Age 55 yrs.,
R/o 17, Bendale Nagar,
Near Prem Nagar, Jalgaon.
- 10 Indrakumar Aatmaram Lalwani,
Age 43 yrs.,
R/o Plot No.13, Mahabal,
Near Rotary Hall, Jalgaon.
- 11 Shaikh Ramjan Shaikh Abdul Nabi,
Age 58 yrs.,
R/o A/p Talegaon, Tq. Jamner,
Dist. Jalgaon.
- 12 Yashwant Omkar Jiri,
Age 63 yrs.,
R/o A/p Talegaon, Tq. Jamner,
Dist. Jalgaon.
- 13 Suklal Sahadu Mali,
Age 58 yrs.,
R/o A/p Talegaon, Tq. Jamner,
Dist. Jalgaon.
- 14 Lalitabai Raju Sonawane,
Age 43 yrs.,
R/o A/p Talegaon, Tq. Jamner,
Dist. Jalgaon.

... Petitioners

... Versus ...

The State of Maharashtra

... **Respondent**

...

Mr. P.D. Jarare and Mr. A.R. Avachat, Advocates for petitioners

Mr. S.J. Salgare, APP for respondent

...

**CORAM : SMT. VIBHA KANKANWADI
ABHAY S. WAGHWASE, JJ.**

DATE : 19th AUGUST, 2023

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present petitioners have invoked the constitutional powers of this Court under Article 226 of the Constitution of India and inherent powers under Section 482 of the Code of Criminal Procedure, 1973 by filing this writ petition for following prayers.

“A) This Hon’ble Court may kindly issue appropriate writ order or directions to the respondent to club, merge and consolidate all the charge sheets filed in all 85 criminal cases (which are duly enlisted under Exhibit “B”) in one consolidated charge sheet for being proceeded with in accordance with law before the Special MPID Court at Jalgaon;

B) This Hon’ble Court may kindly issue appropriate writ order or directions that any further and/or future charge sheets in the present

matter may please be directed to be clubbed, merged and consolidated in the single consolidated charge sheet made and filed in terms of the orders of this Hon'ble Court in terms of prayer clause (A) above;"

2 Heard learned Advocate Mr. P.D. Jarare for the petitioners and learned APP Mr. S.J. Salgare for respondent.

3 It has been vehemently submitted on behalf of the petitioners that petitioner No.1 had founded Bhaichand Hirachand Raisonni Co-operative Credit Society Limited in the year 1996 and it became Multi State Credit Co-operative Society in the year 2007. There are about 263 branches of the said credit society in Maharashtra, Gujrat, Madhya Pradesh and Rajasthan. It has deposits of Rs.1,100 crores and there are about more than 1500 employees employed in the society. After giving the history as to how offences came to be registered, it has been stated that in all 85 First Information Reports have been filed in various parts of Maharashtra. Petitioners had approached this Court at Principal Seat by filing Writ Petition No.2784 of 2018 with the prayer that all the First Information Reports and proceedings filed before the Courts in Maharashtra may be transferred in one single Court i.e. Special MPID Court at Jalgaon. By order dated 02.05.2019 the Division Bench at the Principal Seat exercised powers of this Court under Section 407 of the Code of Criminal Procedure to transfer 85 criminal cases against the petitioners to

the said Special Court, under MPID Act at Jalgaon. It is stated that respondent/State has filed separate charge sheets in all the said criminal cases making the record extremely voluminous and cumbersome and, therefore, the clubbing, merging and consolidation of all the charge sheets has become necessary. It would curtail the record as well as would ensure fair and speedy trial. The learned Advocate for the petitioners has relied on the decision in **Satinder Singh Bhasin vs. State of Uttar Pradesh** decided by Three Judge Bench of Hon'ble Supreme Court on 12.05.2022 in **Writ Petition (Criminal) No.197 of 2021**.

4 Per contra, the learned APP strongly opposed the application and submitted that on the request of present petitioners in the earlier case 77 criminal cases against Bhaichand Hirachand Rasoni Multistate and Credit Co-operative Society and it's office bearers/employees pending in different Special MPID Courts in the State were transferred to Special MPID Court at Jalgaon. Details given would show that the charge sheets have been filed long back and, therefore, now, there is no propriety for the petitioners/cause of action for making such prayers.

5 At the outset, we would like to say that the list of 85 crime numbers with the Police Stations has been given at Exh. 'B' and the last

column of the said chart shows the date of filing of the charge sheet. The Criminal Writ Petition No.2784 of 2018 was decided by the Division Bench at Principal Seat on 02.05.2019, therefore, taking into consideration the said date it can be seen that charge sheet was filed with Jilhapeth Police Station, Jalgaon first in time i.e. on 17.11.2016. Thereafter, there is charge sheet of Crime No.4/2016 with Jamner Police Station, Dist. Jalgaon filed on 17.11.2016, Crime No.2/2017 with Pachora Police Station, Dist. Jalgaon filed on 27.07.2017, Crime No.9/2019 with Kannad City Police Station, Dist. Aurangabad filed on 03.07.2019, Crime No.1/2015 with Ramanand Nagar Police Station, Jalgaon filed on 01.04.2015, Crime No.3/2015 with Erandol Police Station, Dist. Jalgaon filed on 17.08.2015 and Crime No.2/2015 with City Police Station, Jalgaon filed on 17.08.2015. In respect of rest of the offences/FIRs the charge sheet has been filed after 02.05.2019. Perusal of the Judgment in the earlier writ petition would show that the Principal Seat had exercised the powers under Section 407 of the Code of Criminal Procedure to transfer 77 criminal cases. No such prayer as prayed was made, though the petitioners had complete idea that except the aforesaid mentioned crime numbers the charge sheet has not been filed in other First Information Reports. The second chart has also been given on page No.51, which is in respect of 38 cases and it appears that except 07 cases in other 31 cases even the charge has been framed and the last column shows that whether the

matters have been started or not. In some cases it is said that the proceedings have not started and in some cases witnesses up to 18 in number have been examined. The present petition has been filed on 22.07.2022, though the earlier writ petition came to be disposed of on 02.05.2019. The present petition not only suffers from delay and laches but it is also with some mala fide intention filed belatedly. When the petitioners have knowledge that there is progress in the matters, they cannot ask for clubbing, merger and consolidation of charge sheets into one charge sheet. At the costs of repetition, we would say that such prayer ought to have been made in the earlier petition itself to avoid duplication.

6 When a pinpointed question was asked to the learned Advocate for the petitioners, he relied on the decision in **Radhey Shyam vs. State of Haryana and others, Writ Petition (Criminal) No.75 of 2020** decided by Hon'ble Apex Court on 12.05.2022 and submitted that the petitioners want to take advantage of this decision. A decision of a Court cannot give such kind of right to any party which will cause burden on the authority or trial Courts.

7 We would also like to say that while disposing of the earlier writ petition the Principal Seat has observed in paragraph No.15 that -

“Trial of 77 cases pending before different MPID Courts is a time consuming process and if the trials are clubbed together, the number of witnesses cited can also be reduced to the bare minimum as it is not the volume of the evidence that is brought on record is of relevance but it is the relevant evidence which should form the basis of any trial in determining the guilt of the accused. It is no doubt true that while issuing a direction for clubbing all the offences and the trials, the Court is duty bound to evaluate whether such clubbing would cause prejudice to the accused persons or it would facilitate the trial by taking into consideration the facts involved in the matter. We are of the clear view that trial of 77 CRs by one Court of MPID would rather facilitate the trial and since the interest of several depositors are involved, we are of the clear view that trying all the offences at one place by the same Court would provide a solace to the complainants and speedy disposal of all the offences would assist in achieving the purpose underlying the MPID Act. Further, it would also avert a situation resulting into different final outcomes of distinct trials tried by separate MPID Courts.”

This was the second opportunity to the petitioners to club the cases by taking advantage of these observations. The duty was cast on the concerned Court to evaluate whether the clubbing would cause prejudice to the accused or it would facilitate the trial. The petitioners in this petition are silent as to whether any such application was filed by them before the learned Special MPID Court, Jalgaon. In absence of exhausting the said remedy the petitioners cannot directly come to this Court for the exercise of powers under Article 226 of the Constitution of India and/or under Section

482 of the Code of Criminal Procedure.

8 We are of the firm opinion that this petition is nothing but taking the valuable time of this Court. Such kind of petitions unnecessarily increase the pendency and, therefore, the present petition deserves to be dismissed with costs. Hence, the petition stands dismissed with costs of Rs.30,000/- (Rupees Thirty Thousand only), to be deposited with the High Court Legal Services Sub Committee, Aurangabad, within a period of 15 days.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)

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