# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
## CRIMINAL APPELLATE JURISDICTION
## CRIMINAL APPEAL NO.605 OF 2022
## WITH
## INTERIM APPLICATION NO.3751 OF 2022
## IN
## CRIMINAL APPEAL NO.605 OF 2022

Malati Gangaram Yeshirao .. Appellant

Versus

State of Maharashtra and ors .. Respondents

…

Ms. Medha Jondhale a/w Mr. Anand Jondhale a/w Ms. Rajnandini Jondhale a/w Mr. Harshvardhan Shinde a/w Mr. Upendra Pandey i/b Jondhale & Co. for the appellant.
Mr. S.H. Pasi, for respondent nos.2 to 6.
Mr. S.R. Agarkar, APP for the State.

**CORAM: BHARATI DANGRE, J.**
**DATED : 7th SEPTEMBER, 2023**

**P.C:-**

### Criminal Appeal No. 605 of 2022

1 The present appeal is filed, being aggrieved by an order passed on 22/03/2019 on an application taken out under Section 340 of Cr.P.C for initiating an inquiry into the document dated 23/12/2010 produced by the respondent during the argument of Criminal Revision Application and seeking a direction to file the FIR.

The application specifically contend that the original applicant nos. 2 to 6 and their Advocate produced before the Court a letter dated 23/12/2010, stating that the applicants had made the entire loan payment on the same date, but this document was not produced in the proceedings but when the applicant’s relative went to the bank and inquired about it, they realized that the document is forged and produced before the Court only to interfere in the administration of justice. It is also pleaded that the bank statement of the loan account was also obtained, which clearly reflected that the loan amount was cleared only on 21/02/2011 and therefore an action under Section 340 was initiated.

The said application was opposed on the ground that it is the abuse of process of law.

2 The learned Judge considered the submission advanced and noted that the applicant is the original complainant, who is alleging that the document at Exhibit-A is the forged document. This is a letter issued by H.D.B Financial Services and the Additional Sessions Judge in the impugned order record that it is only an authorized person from the Financial Services, who can state whether the document is true or not, and the applicant has not brought any letter from the Bank and there are no details prescribed as to how the relative could procure the letter.

In any case, I have perused the document which is alleged to be a fake/false one, as the learned counsel for the applicant has placed on record a compilation of the documents and the said document is placed at page no. 12 of the same.

At the outset, it can be seen that the document is issued by the H.D.B Financial Services, to Authorized Secretary, of New Vasant Villa CHS Ltd, in relation to cancellation of mortgage on flat no. E-65 of the Society.

The alleged document record as under:

*"We hereby now confirm the following:*

*1. that our aforesaid borrower has paid the entire loan in Feb 2011.*

*2. You are kindly requested to cancel the charge of* *mortgage created by HDB Financial Services Limited and bank/financial institution hereby gives clearance stating that its entire dues has been paid"*

Surprisingly the document do not bear any date.

2 This document is relied upon to submit that the borrower had paid the loan in February 2011, and it is evident that this is the document which is claimed to be dated 23/12/2010 and alleged to be forged as the entire loan amount was actually repaid in the month of February, 2011. Unless and until, the date on the document is reflected, its falsity cannot be tested, as it is quite possible that the date can be anything after 2011, being 2012, 2013, 2014 and onwards because it certified that, the loan has being paid by the borrower in February, 2011.

Infact, the Sessions Judge did not examine the application for this perspective and apart from the reasoning recorded in the impugned order, even this is an aspect of the matter, which necessarily constrain me to dismiss the appeal by upholding the impugned order.

There was no cause for initiating an action under Section 340 and the learned Judge has rightly rejected the application.

Criminal Appeal is dismissed. As such pending Interim Application also stands dismissed.

**( SMT. BHARATI DANGRE, J.)**