IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.477 OF 2024

Shiv Sharda Mahila Gruha Udyog
Through its Proprietor
Sau. Sharda Shivnarayan Tawani … Petitioner

VERSUS

Ram s/o Vishwanath Chandole
and others … Respondents

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Mr. Rahul P. Dhase, Advocate for Applicant

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 13th MARCH, 2024

ORDER :

1. By this petition, filed under Article 227 of the Constitution of India, petitioner challenges judgment and order dated 13.08.2020 passed by learned Chief Judicial Magistrate, Beed in Criminal Misc. Application No.1009 of 2016, confirmed by learned Sessions Judge, Beed in Criminal Revision No.54/2020.

2. Petitioner filed a private complaint being Criminal Misc. Application No.1009/2016 seeking direction under section 156(3) of the Code of Criminal Procedure, alleging that she is carrying business in the name and style *Shivsharda Mahila Gruh Udyog*, wherein she manufactures household articles. For the said business she had opened a term account

in State Bank of Hyderabad (now State Bank of India), at main Branch Rajuri Ves, Beed in 2009. Accused bank officials informed her that renovation of her earlier account is required and convinced her to open cash credit facility account of Rs.15,00,000/-. For that purpose signatures of petitioner were taken on printed forms. Mortgage deed of petitioner’s plot no.45/2 was registered, thereby creating Bank’s charge on the said property. Even after sanctioning cash credit facility, the benefit of the same was not given to petitioner. Cheque issued by her returned unpaid. Thus, accused Bank officials have cheated her by obtaining signatures on blank documents.

3. A report under section 202 of the Code of Criminal Procedure was filed in the said case. Trial Court dismissed the complaint under section 203 of the Code of Criminal Procedure. Petitioner challenged the dismissal order in Criminal Revision No.97/2017. Revisional Court set aside the order of dismissal and directed learned Magistrate to inquire into the case under section 202 of the Code of Criminal Procedure and remanded the matter back to the trial Court with a view to give reasonable opportunity to the complainant to bring sufficient material on record, i.e. the documents of loan transaction.

4. After remand, trial Court dismissed the complaint under section 203 of the Code of Criminal Procedure. Petitioner unsuccessfully challenged the said order in Criminal Revision No.54/2020.

5. Heard learned advocate for petitioner. Perused the grounds raised in petition, memo, annexures thereto and the impugned orders.

6. It appears that in Criminal Revision No.97/2017, the matter was remanded to trial Court for giving opportunity to the complainant-petitioner to lead her evidence. After the said remand, complaint was restored and by order dated 01.11.2018, she was directed to lead oral as well as documentary evidence in order to point out sufficient ground for proceeding against accused, if any, under section 202(1) of the Code of Criminal Procedure Code. It is pertinent to note that immediately on the next date, complainant-petitioner filed pursis Exhibit-13 informing the Court that she has already led evidence prior to the remand and that is sufficient. It is thus clear that petitioner has failed to avail opportunity to adduce further oral as well as documentary evidence in support of her complaint.

7. Admittedly, petitioner has availed term loan from State Bank of Hyderabad, Rajuri Ves, Beed. The said loan has remained unpaid. According to petitioner, accused Bank officials convinced her to convert the term loan account into cash credit account. Signatures of petitioner were obtained on blank forms and the said documents are manipulated by the accused. Interest was charged on cash credit facility contrary to the R.B.I. rules. Petitioner had to face imprisonment as cheque of Rs.10,000/- issued by her in favour of third party was dishonoured due to insufficiency of funds.

8. Perusal of verification of petitioner shows that she has not stated that accused persons deceived her and they had dishonest intention since beginning and at the time of converting term loan account into cash credit facility. Dishonest intention which is essential ingredient, is silent in her verification. Admittedly, petitioner had approached the Bank for cash credit facility.

9. In spite of giving opportunity to bring loan documents on record, petitioner has failed to avail the same. On the contrary, she has filed pursis Exhibit-13 immediately on the second date and informed the trial Court that she does not want to adduce further evidence. In these facts, trial Court

was justified in dismissing the complaint under section 203 of the Code of Criminal Procedure, holding that facts of the complaint predominantly make out a sufficient fraud and verification statement of petitioner lacks essential ingredients of forgery, cheating and criminal breach of trust. The Trial Court is therefore justified in holding that there is no sufficient ground for proceeding against accused persons and dismissing the complaint under section 203 of the Code of Criminal Procedure. Revisional Court has rightly dismissed the revision, thereby confirming the order of the trial Court.

10. There is no illegality or perversity in the orders impugned in the present petition. Both the Courts have passed well reasoned orders, which are not liable to be interfered with in extraordinary writ jurisdiction.

11. Writ Petition being devoid merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE