IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION (APL) NO.344 OF 2024

Dr. Shwetank Jain
s/o Shri Hukumchand Jain
aged 73 years, Occu. Business
Residing at 704, 705, Sujata Apartment
143/D, August Kranti Marg,
7th Floor, Mumbai-400006. ...Applicant

Versus
1. Rupee Co-Operative Bank
Having Head Office at
Plot No.B/C/1, Marketyard,
Gultekadi, Pune-411037, and
Girgaon Branch at 257/A J.S.S. Road,
Girgaon, Mumbai-400004.

2. The State of Maharashtra
Through S.r Inspector of Police
G.B.CB. CID, Mumbai. ...Respondents

Mr. Rajender Singh Saluja Advocate for Applicant.
Mr. Tejas Dande, Respondent No.1.
Ms. Rutuja Ambekar, APP for Respondent No.2-State.

CORAM : PRAKASH D. NAIK &
N. R. BORKAR, JJ.

DATE : 3rd APRIL, 2024

P.C.:-

1. The applicant is charge-sheeted for offences under Sections 465, 467, 468, 471, 420 read with 120(B) of the Indian Penal Code, 1860 and the proceedings are pending before learned Additional Chief Metropolitan

Magistrate, 19th Court, Esplanade, Mumbai vide C.C. No.185/PW/2002. The proceedings are arising out of FIR dated 29th October 1999 registered with G.B. CB. CID, Mumbai, vide C.R. No.107 of 1999. It was registered at the instance of Rupee Co-Operative Bank, J.S.S. Road, Girgaon, Mumbai, Branch. The FIR was registered on the basis of written complaint submitted by bank alleging that the accused had entered into conspiracy and submitted false document and cheated the complainant/bank.

2. Learned Advocate for Applicant submitted that, Miss. Chitra Hukumchand Jain was impleaded as accused No.2. She has expired on 5th August 2021. The death certificate of the said accused has been annexed to this application. Hence, the proceedings against accused No.2 stands abated. The dispute pertain to non-payment of loan amount and utilization of the loan amount for the purpose other than for which it was sanctioned. The loan has been repaid by the applicant to the complainant/bank and the matter has been amicably settled between them. On payment of the loan amount, the Respondent No.1/Bank had issued No Dues Certificate in favour of applicant. In view of settlement, the Bank has no objection for quashing the proceedings.

3. Learned Advocate for Respondent No.1/Bank submitted that, there is settlement between Complainant/Bank and the accused. The bank has no objection for allowing this application and quashing the proceedings. The Respondent No.1 has filed affidavit of consent for quashing the

proceedings. The representative of the bank/Respondent No.1 is present in the Court. The deponent in the affidavit is authorized to file affidavit on behalf of Bank. The proceedings may be quashed with the consent of complainant.

4. Learned APP submitted that, the accused had utilized false documents for obtaining loan and cheated the Bank. On completing investigation, charge-sheet was filed against the accused.

5. The transaction was in relation to the loan obtained by the accused. There is settlement between complainant/bank and accused. Shri. Naval Shankar Salaskar has filed affidavit on behalf of Respondent No.1. In the affidavit it is stated that, the deponent is working as a Manager with Respondent No.1/Bank. He has been authorized to file affidavit on behalf of Respondent No.1/Bank, vide Liquidator's Resolution dated 27th February 2024 and authority letter dated 11th March 2024. It is further stated that, the applicant and the Bank/Respondent No.1 have settled all the disputes and differences and that the applicant had paid the amount due and payable to Respondent No.1/Bank. The bank has issued no dues certificate dated 31st October 2022 in favour of applicant. After the settlement of loan account, the Liquidator has taken charge of the affairs of the Bank. Matter has been amicably settled between the parties. There is no dispute of any nature pending between the applicant and Respondent No.1/Bank. All the grievances of the bank against the applicant are settled. It has been

brought to the notice of the Liquidator of the Bank that since charges against the applicant/accused cannot be withdrawn and compounded as the offences are non-compoundable in nature, the applicant has approached this Court for quashing the proceedings. Since the process of liquidation of the respondent No.1/Bank is going on, and since the matter has been amicably settled between the parties as such no purpose will be served by continuing criminal case against the applicant. Liquidator of the Respondent No.1/Bank has no objection for quashing the said FIR and Criminal Case against the applicant.

6. Along with the affidavit, the Resolution dated 27th February 2024 passed by Bank/Respondent No.1 Authorizing the bank officials to represent the Bank before the Court and other Authorities are placed on record. The Authority Letter is issued in favour of Mr.Naval Shankar Salaskar as a General Manager of Rupee Co-Operative Bank authorizing him to appear before the Hon’ble High Court. The applicant has also annexed no dues certificate dated 31st October 2022 issued by Respondent No.1/Bank to the applicant stating that the Bank had sanctioned one time settlement of loan account. Vide sanctioned letter dated 23rd November 2021 and accepted by applicant on 26th November 2021 and 7th December 2021 and that the HP loan account No. 276 stands settled on 31st October 2022. There are no dues towards the said account.

7. In view of settlement between the parties and as represented the loan has been repaid to the complainant/bank, the impugned proceedings can be quashed.

ORDER

(i) Criminal Application (APL) No.344 of 2024 is allowed;

(ii) The impugned proceedings in C.C. No.185/PW/2002 pending before the learned Additional Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai arising out of FIR No.107 of 1999 dated 29th October 1999 registered with G.B. C.B. C.I.D., Mumbai is quashed and set aside against the applicant.

(iii) The Applicant shall pay the cost of Rs.1,00,000/- to Advocates' Association of Western India Generation Next within a period of three weeks from the date of uploading of the present order and submit the receipt of the same in the Registry of this Court. The details of the Bank Account for payment of costs are as under:-

Account Name	:	Advocates Association of Western India Generation Next
Account Number	:	000110110007807
Bank Name	:	Bank of India
Branch Name	:	Mumbai Main
IFSC Code	:	BKID0000001

(iv) Application stands disposed off.

(N. R. BORKAR, J.) **(PRAKASH D. NAIK, J.)**

Dnyaneshwar Ethape, P.A.

Corrected version of order dt.03.04.2024 pursuant to speaking to minutes of order dt.18.04.2024.