

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

REVISION APPLICATION NO. 13 OF 2024

Namrath Nithyananda Shetty ...Applicant
vs.
The Sr. Police Inspector and Anr. ...Respondents

Adv. Amarlal H. Ramrakhiani i/by Adv. Vaibhav P. Shinde - Advocate
for the Applicant

Mr. Jignesh Gor - Advocate for the Respondent Nos. 2 and 4

Dr. D. Iyer – APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 28th FEBRUARY, 2024

P. C. :-

1. Heard learned Advocate for the Applicant-Complainant, learned
APP for Respondent Nos. 1 and 6 and learned Advocate for
Respondent Nos. 2 and 4.

2. Let learned Advocate to file Vakalatnama for Respondent Nos. 2
and 4 within two weeks.

3. Whereas Respondent No. 5 non banking financial institution is
not served through Court, as copies were not supplied to the Office.
Let the Applicant to supply those copies for service on Respondent

No. 5 and then notice be issued to them. The Applicant claims that they have served them privately, an affidavit of the service is filed today. The same is taken on record. Let us make an attempt to serve them through local police.

4. Respondent No. 3 is shown as dead and in the title clause the address of the Legal representatives is given. The details of the legal representatives are not given. When asked learned Advocate for the Applicant-Complainant submitted that they have not alleged about participation of legal representatives in the commission of the offence. As per Criminal law only person can be held responsible for his individual acts. There can be vicarious liability also in certain contingencies but legal Representatives cannot be held liable as per criminal law in any capacity. So let the name of the Respondent No 3 be deleted. Amendment by carried by the applicant till next date.

5. Learned Advocate for the Complainant-Applicant invited my attention to the following documents:-

- (a) The copy of the complaint at page nos. 30-A to 30-Q
- (b) the Order dated 29/06/2022 passed by the trial Magistrate Pune thereby sending the Complaint for inquiry under Section 202 of the Criminal Procedure Code to Lonikand

Police Station, at page no. 33.

(c) the report given by the Lonikand Police Station, on page no. 105 to page no. 112.

6. The local Police have given following report :-

- a) There were financial dealings in between the Applicant and non applicants.
- b) There is claim by the Applicant, for forged signature on the loan application, whereas non Applicants have repaid the loan within 18 months.

7. On the basis of the this report, the learned Magistrate has dismissed the Complaint under Section 203 of the Criminal Procedure Code, at page no. 27. My attention is invited to the following observations in the said Order:-

- a) The submission is recorded in para no. 3.
- b) The observations in para no. 6 which mentions that there is no findings of any competent Civil Court on the point of forgery.
- c) para no. 7, which mentions that the dispute is of civil nature.

8. The allegations in the complaint is that the present Applicant, Respondent Nos. 2, 4 and deceased Respondent No. 5 were the partners of one firm and other partners have obtained a loan in the name of the firm and the Applicant has not signed on that loan

application but other partners have forged his signatures. He got knowledge about this forged loan when he has applied for personal loan. Even he claims that he has submitted the private hand writing expert report to support his contention and it was not considered by the trial Court.

9. Learned Advocate for the Respondent No. 2 and 4 wants to file reply. It is made clear that the scope of this revision is limited that is to say whether learned Magistrate was right in dismissing the complaint or whether there is sufficient material submitted by the Complainant in support of his client. The contesting Respondent may file reply considering the scope of the revision within four weeks. The copy of the reply may be served on the learned Advocate for the Applicant in advance.

10. Matter be kept on **10th April, 2024.** Let learned APP also to take instructions from the concerned Police station about the investigation carried out by them.

[S. M. MODAK, J.]