



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

18 CRIMINAL APPLICATION NO.77 OF 2022

- 1 Aabasaheb Vasantrao Jadhav,
Age 46 yrs., Occ. Agri.,
- 2 Nivrutti Machhindra Mote,
Age 47 yrs., Occ. Agri.,
- 3 Pramod Bhaurao Pawar,
Age 50 yrs., Occ. Agri.,
- 4 Kailas Tukaram Gaikwad,
Age 48 yrs., Occ. Agri.,
- 5 Namdev Baburao Bhoge,
Age 43 yrs., Occ. Agri.,
- 6 Manik Madhav Mote,
Age 48 yrs., Occ. Agri.,
- 7 Rohidas Laxman Kardile,
Age 52 yrs., Occ. Agri.,
- 8 Mirabai w/o Sunil Mote,
Age 48 yrs., Occ. Agri.,

All applicants are
r/o Wadala Bahiroba,
Tq. Newasa, Dist. Ahmednagar.

... Applicants

... Versus ...

- 1 The State of Maharashtra
Through Police Inspector,
Police Station, Newasa,
Tq. Newasa, Dist. Ahmednagar.

- 2 The Police Inspector,
Police Station, Shani Shingnapur,
Tq. Newasa, Dist. Ahmednagar.
- 3 Laxman Namdev Ishtake,
Age 46 yrs., Occ. Agri.,
R/o New Kaygaon, Tq. Gangapur,
Dist. Aurangabad.
- 4 Sharad Bhausahab Mote,
Age 34 yrs., Occ. Agri.,
R/o Wadala Bahiroba, Tq. Newasa,
Dist. Ahmednagar.
- 5 Pandurang Ananda Thombre,
Age 58 yrs., Occ. Agri.,
R/o Kharwandi, Tq. Newasa,
At present r/o near Newasa Court,
Tq. Newasa, Dist. Ahmednagar.

... **Respondents**

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Mr. R.R. Karpe, Advocate for applicants

Mr. G.A. Kulkarni, APP for respondent Nos.1 and 2

Mr. G.J. Pahilwan, Advocate for respondent No.3

Mr. V.B. Jagtap, Advocate for respondent No.4

Mr. A.B. Chormal, Advocate for respondent No.5

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WITH

CRIMINAL APPLICATION NO.103 OF 2022

- 1 Muktabai w/o Nivrutti Mote,
Age 47 yrs., Occ. Household,

- 2 Aabasaheb Vasantrao Jadhav,
Age 46 yrs., Occ. Agri.,
- 3 Rohidas Haribhau Mote,
Age 47 yrs., Occ. Agri.,
- 4 Kailas Tukaram Gaikwad,
Age 48 yrs., Occ. Agri.,
- 5 Anil Baburao Pawar,
Age 43 yrs., Occ. Agri.,
- 6 Dhairyashil Keshav Survase,
Age 48 yrs., Occ. Agri.,
- 7 Namdev Baburao Bhoge,
Age 43 yrs., Occ. Agri.,
- 8 Manik Madhav Mote,
Age 48 yrs., Occ. Agri.,

All applicants are
r/o Wadala Bahiroba,
Tq. Newasa, Dist. Ahmednagar.

... Applicants

... **Versus** ...

- 1 The State of Maharashtra
Through Police Inspector,
Police Station, Newasa,
Tq. Newasa, Dist. Ahmednagar.
- 2 The Police Inspector,
Police Station, Shani Shingnapur,
Tq. Newasa, Dist. Ahmednagar.
- 3 Ramdas Madhav Korde,
Age 76 yrs., Occ. Agri.,

R/o Khedlekajali, Tq. Newasa,
Dist. Ahmednagar.

- 4 Balasaheb Dhondiram Phatke,
Age 68 yrs., Occ. Agri.,
R/o Kharwandi, Tq. Newasa,
Dist. Ahmednagar.

... **Respondents**

...

Mr. R.R. Karpe, Advocate for applicants

Mr. G.A. Kulkarni, APP for respondent Nos.1 and 2

Mr. A.B. Chormal, Advocate for respondent No.4

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**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 23rd JULY, 2025

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

1 Both these applications are in respect of directions to club the subsequent First Information Reports. The point involved is same and, therefore, those are taken up together.

2 In **Criminal Application No.77 of 2022** applicants are the original accused against whom separate First Information Reports have been lodged

by respondent Nos.3, 4 and 5. Respondent No.3 has filed First Information Report vide Crime No.729/2020 with Police Station, Newasa, Dist. Ahmednagar on 15.09.2020 for the offence punishable under Sections 420, 120-B, 406 read with Section 34 of the Indian Penal Code, 1860 and under Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (for the sake of brevity hereinafter referred to as “**the M.P.I.D. Act**”). Respondent No.4 has filed First Information Report vide Crime No.45/2021 with Police Station, Newasa on 25.01.2021 for the offence punishable under Section 3 of the M.P.I.D. Act and under Sections 420, 406, 409 read with Section 34 of the Indian Penal Code. Respondent No.5 has filed First Information Report vide Crime No.10 of 2021 with Police Station, Shani Shingnapur, Tq. Newasa on 20.01.2021 for the offence punishable under Sections 3, 4, 5, 6, 7, 8 and 13 of the M.P.I.D. Act and under Sections 402, 406, 408, 409, 417, 418, 419, 420, 421, 422, 423, 424, 426, 427, 465, 466, 468, 471, 474, 477, 477-A, 120-B, 107, 108, 110, 111, 504, 506, 109 read with Section 34 of the Indian Penal Code.

3 In **Criminal Application No.103 of 2022** applicants are the same, however, they say that respondent No.3 has filed First Information Report vide Crime No.497/2019 on 24.07.2019 with Police Station, Newasa for the offence punishable under Section 406 read with Section 34 of the Indian

Penal Code and respondent No.4 has then lodged First Information Report vide Crime No.9/2021 on 19.01.2021 with Police Station, Shani Shingnapur, Tq. Newasa for the offence punishable under Sections 3, 4, 5, 6, 7, 8 and 13 of the M.P.I.D. Act and under Sections 402, 406, 408, 409, 417, 418, 419, 420, 421, 422, 423, 424, 426, 427, 465, 466, 468, 471, 474, 477, 477-A, 120-B, 107, 108, 109, 110, 111, 504, 506 read with Section 34 of the Indian Penal Code.

4 Heard learned Advocate Mr. R.R. Karpe for applicants and learned APP Mr. G.A. Kulkarni for respondent Nos.1 and 2, in both matters. Heard learned Advocate Mr. G.J. Pahilwan for respondent No.3 and learned Advocate Mr. V.B. Jagtap for respondent No.4 in Criminal Application No.77 of 2022. Heard learned Advocate Mr. A.B. Chormal for respondent No.5 in Criminal Application No.77 of 2022 as well as for respondent No.4 in Criminal Application No.103 of 2022.

5 Learned Advocate for applicants submits that it is settled canon of law that similar First Information Reports against the same accused persons having identical allegations is wholly unsustainable and impermissible. The applicants are the office bearers and Managing Committee members of Bhairavnath Co-operative Society Limited. It is alleged that upon the assurances or promises the informants had deposited

amount in Fixed Deposit and in spite of maturity the amount was not returned to informants. The informants, therefore, say that applicants have cheated them. Perusal of those First Information Reports would give the same picture and, therefore, the second First Information Report is not maintainable. He relies on the decision in **T.T. Antony vs. State of Kerala and others** [(2001) 6 SCC 181], wherein it has been held that a second First Information Report in a case which is not a cross case, violates Article 21 of the Constitution of India. He also relies on **Surender Kaushik and others vs. State of Uttar Pradesh and others** [(2013) 5 SCC 148]. The applicants cannot be asked to run from pillar to post to defend themselves in the second First Information Report. The third First Information Report vide Crime No.10/2021 was outcome of private complaint, wherein order under Section 156(3) of the Code of Criminal Procedure was allowed by learned Judicial Magistrate First Class, Newasa. In Criminal Writ Petition No.1595 of 2019 about four depositors had approached this Court and prayed for transfer the investigation from Police Station, Gangapur to competent officer. The said investigation has been transferred to Economic Offences Wing at Aurangabad and, therefore, this Court disposed of writ petition by order dated 27.02.2020 directing the State Government to see whether all matters regarding the Multi-state Co-operative Society can be handed over for the investigation to Economic Offences Wing, Ahmednagar. Accordingly, now the investigation is

looked after by Economic Offences Wing, Ahmednagar. All the offences are then transferred to the same investigating agency. Another Criminal Writ Petition No.1824 of 2019 was filed on behalf of eight depositors before this Court seeking directions to lodge First Information Report against the Managing Committee members of the society i.e. present applicants. That petition came to be disposed of on 26.02.2020 with direction to concerned Police Station to register crime on the basis of complaint given by one of the petitioners. Now, in one of the cases i.e. in Criminal Application No.77 of 2022 respondent No.4 has been shown as witness, whereas he has filed his own First Information Report separately. Therefore, there would be duplication of the evidence, which would affect the fundamental rights of applicants and, therefore, he has prayed for clubbing of First Information Reports.

6 Learned APP as well as learned Advocates appearing for all respective respondents have strongly opposed the applications and submitted that each informant has his own grievance. The amount that was deposited by them was separate amount and, therefore, the separate First Information Reports are maintainable. Now, the investigating agency is same and Special Court before whom the case under the M.P.I.D. Act would stand is same i.e. Special Court under the M.P.I.D. Act / Additional Sessions Judge, Newasa,

Dist. Ahmednagar. Therefore, there is absolutely no necessity to give any such directions and clubbing of First Information Reports.

7 The first and the foremost fact that is required to be considered here is that the transaction of each informant is separate with Multi-state Co-operative Society. Now, what role was played by each of the applicants is a different question and since the present applications are not for quashment, we need not go into the same. What has been prayed is the clubbing, then it is required to be seen, whether it is necessary to club all the First Information Reports. An accused has no right as to how the investigation should be done or by whom it should be done. That is the prerogative of the State and only in certain circumstances the informant may come to this Court for change of investigating agency, if there appears to be *mala fides* on the part of Investigating Officer. The limited right may be available to applicants to challenge subsequent First Information Report and accused may also ask for clubbing of First Information Reports in certain circumstances only. Now, we are required to consider, as to whether other First Information Reports were uncalled for. Here, each of the informants is saying that he or she has been cheated. He is the separate depositor to whom a promise was made that his or her amount would be returned after a particular period. However, those amounts have not been given. In some matters the offence under the M.P.I.D.

Act is not invoked at this stage, however, certainly, the facts are there. The facts in each case are also somewhat different. When the allegations regarding preparation of forged receipts regarding extension of the time or preparation of renewal of the Fixed Deposits has been made, those allegations would be restricted to against the accused persons *qua* the said informant and, therefore, in our opinion there is absolutely no bar for the separate First Information Reports. We will not call it as the second First Information Report. We would like to rely on the decision in **State of Rajasthan vs. Surendra Singh Rathore** in Criminal Appeal No. of 2025 (arising out of SLP (Cri.) No.16358 of 2024) decided by Hon'ble Supreme Court on 19.02.2025, wherein taking into consideration the earlier decisions including **T.T. Antony** (supra), **Surender Kaushik** (supra) it has been observed that -

“9 From the above conspectus of judgments, *inter alia*, the following principles emerge regarding the permissibility of the registration of a second FIR:

9.1 When the second FIR is counter-complaint or presents a rival version of a set of facts, in reference to which an earlier FIR already stands registered.

9.2 When the ambit of the two FIRs is different even though they may arise from the same set of circumstances.

9.3 When investigation and/or other avenues reveal the earlier FIR or set of facts to be part of a larger conspiracy.

9.4 When investigation and/or persons related to the incident bring to the light hitherto unknown facts or circumstances.

9.5 Where the incident is separate; offences are similar or different.”

Present cases fall under ‘9.5’. Now, the investigation is by the same agency and cases would be tried by one Court. Under such circumstance, no case is made out for exercise of powers of this Court under Section 482 of the Code of Criminal Procedure. Both applications stand rejected.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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