IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 169 OF 2020

Anilkumar s/o Gangadharrao Bhojrao Patil,
Age; 52 years, Occ; Business & Agril,
R/o ; Bhatiya Complex, Banda Ghat Road,
Vazirabad, Tq. & Dist. Nanded. ...PETITIONER

VERSUS

1. State of Maharashtra
Through, Police Station Vajirabad,
Nanded.

2. Alokkumar Shrivastav (Manager)
Age; Major, Occ; Service,
R/o; Central Bank of India,
Br. Vazirabad, Nanded.

3. Anup Pande (Law Officer)
Age; Major, Occ. Legal Practitioner,
R/o; Central Bank of India,
Br. Regional Office, Osmanpura,
Aurangabad.

4. Vaingankar (The then Regional Manager)
Age; Major, Occ; Retired,
R/o; Central Bank of India,
Br. Regional Office, Osmanpura,
Aurangabad.

5. Meena (Regional Manager),
Age; Major Occ. Service,
R/o; Central Bank of India,
Br. Regional Office, Osmanpura,
Aurangabad.

6. Narendrasingh (General Manager)
Age; Major Occ; Service,
R/o; Central Bank of India,
Zonal Office, Lucknow (U.P.),

7. Achyut P. Mahajan (Architect and Valuer)
Age; Major, Occ. Architect & Valuer,

R/o; Mahajan Complex, Vazirabad,
Nanded. **...RESPONDENTS**

...
Advocate for the Petitioner : Mr.Sushant V. Dixit
APP for Respondents/State : Ms. Anuradha S. Mantri
Advocate for Respondent Nos. 2 to 6 : Mr.Kedar Warad h/f Mr. S.V.Warad
Advocate for Respondent No. 7 : Mr. Amaya N.Sabnis
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CORAM : SUSHIL M. GHODESWAR, J.

Date of Reservation : 27.11.2025

Date of Pronouncement : 22.12.2025

JUDGMENT :

1. Heard.

2. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

3. The petitioner is praying for quashing and setting aside the impugned order dated 30.11.2019, passed in Criminal Revision No. 22 of 2019 by the learned District and Sessions Judge, Nanded. He is also praying for directions against Respondent No. 1 to register a Crime against Respondent Nos. 2 to 7 for the offences punishable under Sections 420, 467, 468, 471, 409, 504 r/w 34 of the Indian Penal Code.

4. According to the petitioner, he is a partner and Power of Attorney holder of the 'Purnima Industries'. He had availed the loan for

his factory from the Central Bank of India, Branch Nanded. The proceedings were initiated before the Debts Recovery Tribunal, Aurangabad, as the said loan was declared Non Performing Asset (for short 'N.P.A.'). The property belonging to petitioner was mortgaged with the said bank and through the proceedings before the Debts Recovery Tribunal (for short "D.R.T."), the bank took possession of the factory on 24.01.2017 under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (for short "The SARFAESI Act)". One Mr. Mahajan was the Valuer, who submitted his report on 25.01.2017 as regards the valuation of the said factory premises. The petitioner submits that Respondent Nos. 1 to 6, in collusion with each other prepared false and bogus report dated 25.01.2017 and they have intentionally undervalued factory up to 1/10th price of its actual price. Due to the said undervaluation, huge financial loss is being caused to him. On the basis of said false and forged document, the Respondents have conducted auction sale of the factory on 24.03.2017, wherein, the base price was Rs. 1,21,00,000/- (One Crore and Twenty One Lakh) but the property was shown to have been sold for price of Rs. 4,18,37,000/- (Four Crores, Eighteen Lakhs and Thirty Seven Thousand). The said auction dated 24.03.2017 was set aside by the D.R.T., Aurangabad. Thereafter, the Respondents again conducted the auction on 31.07.2017 in which, the reserve price should not be less than Rs. 4,00,00,000/- (Four Crores) on the basis of the sale price of previous auction dated 24.03.2017. But it was again intentionally kept at Rs. 1,21,00,000/- (One Crore, Twenty Lakhs). Again the said auction came to be challenged by the petitioner before the learned D.R.T. Aurangabad, wherein, the Tribunal ordered that the sale should not be confirmed and also permitted the Respondents therein to obtain a fresh revised valuation. It is alleged that the Respondents have, intentionally and in collusion with the Valuer prepared a false and forged valuation report and thereby under valued the property of the petitioner once again thereby putting him to great loss. Therefore, the petitioner approached the learned Judicial Magistrate, First Class, Nanded by filing O.M.C.A. No. 690 of 2018 for issuing order under Section 156 (3) of the Code of Criminal Procedure, 1973 against Respondent Nos. 2 to 7.

5. Learned Judicial Magistrate, First Class vide his detailed order dated 25.01.2019 was pleased to reject the said application by observing that there is no criminal breach of trust as per Section 409 of the Indian Penal Code or mischief under Section 427 of the Indian Penal Code and in absence of such material merely because of such an incorrect valuation it cannot be said that the Respondents have indulged in forgery or falsification of the report. Therefore, the learned Magistrate observed that offences under Sections 420, 467, 468, 471, 409 and 427 r/w 34 of the Indian Penal Code are not attracted, therefore, accordingly rejected the said application.

6. The petitioner being aggrieved by the said order approached the learned Sessions Court, Nanded by filing a Criminal Revision Application No. 22 of 2019, wherein the learned Sessions Court, Nanded

also vide its order dated 30.11.2019 was pleased to reject the Revision Application. Therefore, the petitioner has approached this Court challenging the said impugned order of the Subordinate Courts.

7. According to the learned Counsel for the petitioner both the subordinate Courts have failed to consider that Respondent Nos. 2 to 7 in collusion with each other deliberately undervalued the valuation of the factory premises and also created false and forged documents and therefore, both the orders are incorrect and not proper. He further submits that Respondent Nos. 2 to 7 by creating the said valuation report have committed misappropriation and fraud with the help of fabricated documents, therefore, the offences are required to be registered. He further relied upon the valuation report submitted by the Valuer/Architect Achyut P. Mahajan on 25.01.2017, wherein the valuation of the said premises is valued up to Rs. 1,33, 58,000/- (One Crore, Thirty Three Lakhs and Fifty Eight Thousand). He invited my attention to a certain column of the said valuation report, wherein as regards the valuation of the land it is shown in column No. 3 that the prevailing market rate is @ Rs. 750.00 “sft.” He further submits that the net area for the purpose of valuation is considered upto 40,000/- Sq. Mtrs. which comes to equally to Rs. 1,55,000/- Sq.fts. If the rate of Rs. 750/- Sq. Fts. is applied then total valuation of the property goes upto Rs. 10,85,00,000/- (Ten Crores and Eighty Five Lakhs). However, instead of showing the said valuation price the Valuer has undervalued the costs of the premises and in column No. 6 of the said valuation report, the

estimated value of land is assessed upto Rs.1,80,00,000/- (One Crore and Eighty Lakhs) (which was wrongly shown as Rs.1,00,80,00,000/-). Thus, the said valuation is absolutely incorrect and deliberately prepared to put him at huge loss. He further contended that though the said auction was continued with the price of Rs. 1,80,00,000/- (One Crore and Eighty Lakhs), in an auction, one bidder had accepted bid of said premises in Rs. 4,00,00,000/- (Four Crore) and some odd amount, however, the said auction was challenged by the petitioner, on the ground that it was based on undervaluation report of the premises. The said auction was set aside by the Debt Recovery Tribunal. Thereafter, again another auction process was initiated, and again second auction process was conducted. The successful bidder in the first round was selected as the highest bidder but the amount offered was lower than in the first round. So again the same procedure came to be started in view of litigation. He further submitted that by submitting an under valued report with collusion with the Bank Officials, the accused persons have committed aforesaid offences under the provisions of Indian Penal Code and therefore, the order passed by both the subordinate Courts be quashed and police be directed to register the crime against the accused persons.

8. Mr. Varad, the learned Counsel for Respondent Nos. 2 to 6 vehemently opposed the prayers sought by the petitioner in this petition. According to him, the learned Counsel for the petitioner is misinterpreting the valuation report submitted by Respondent No. 7, the Valuer/Architect on 25.01.2017. He submits that from the same report and from the

same columns which have been relied upon by the petitioner, that column No. 3 is showing the prevailing market rate @ Rs. 750/- sft. and it is incorrect because there is admittedly a typographical mistake in that “sft.” came to be inserted. He has further submitted that the prevailing market rate of the concerned factory premises area is therefore, not Rs. 750.00 per sft. but it is Rs. 750/- per Sq. Mtrs. He therefore, further relied on Column No. 4 which is not pointed out by the learned Counsel for the petitioner of the same valuation report. which is very much after the Column No. 3. The said Column No. 4 is in respect of guideline rate obtained from the Registrar’s Office. In front of this column, the rate of Rs. 750.00 Sq. M. is mentioned. By considering the said rate per Sq. Mts. the estimated value of the land is assessed as Rs.1,00,80,000,00/-, which is typographical error and it ought to be Rs.1,80,00,000/- (One Crore and Eighty Lakhs). He has further submitted that the petitioner is unnecessarily taking undue advantage of the typographical error took place in the said valuation report to contend that by submitting such an under valuation report the Respondent bank officials, in collusion with Respondent No. 7, the Valuer, are deliberately trying to harass him by causing him huge economic loss with the aid of false/forged and fabricated documents. Mr. Varad, learned Counsel for the Respondent Nos. 2 to 6, further invited attention of this Court to another valuation report submitted by the petitioner himself in respect of the same factory premises which is dated 28.04.2018 i.e. after the valuation report dated 25.01.2017. In the said valuation report dated 28.04.2018 submitted by the petitioner, the guideline rate obtained form the same date of the ready reckoner is shown to be Rs. 850 per Sq. Mtrs. He therefore, contends that the said report is prepared after 15 months. The rates are increasing so hiked of Rs. 100/- per Sq.M. is justified and proper and therefore, it is crystal clear from the valuation report submitted by the petitioner himself that in the year 2017 as per the ready reckoner the rate shall be Rs. 750 per Sq. Mtrs. Hence there cannot be any under valuation at any cost, as alleged by the petitioner in his complaint. He, therefore, submits that the learned Courts below justified in rejecting the relief sought by the petitioner. Even otherwise, he further submits that the property is mortgaged with the bank and it has not been purchased or handed over to anybody. The bank is only interested in recovering its outstanding loan amount against the petitioner. It is open for the petitioner to pay the outstanding amount and get released the property from the bank. He further submits that the instant petition may kindly be dismissed.

9. Mr. Amaya N. Sabnis, learned Counsel for the Respondent No. 7 the Valuer/Architect submits that Respondent No. 7 is a reputed Architect and Valuer of the town and he has performed his professional duties by providing the valuation report dated 25.01.2017. Even if, for the sake of arguments, if it is considered that Respondent No. 7 has not given proper valuation of the assets, however, the same could be a professional error coming out of the opinion which may or may not be relied upon by the authority or the party to whom it is given. Such professional error cannot at all be said to have committed the penal offence under the provisions of the Indian Penal Code. He relied upon two

authorities delivered by the Hon'ble Apex Court in **Priyanka Shrivastava and Another Vs. State of Uttar Pradesh and Others – reported in (2015) 6 SCC 287** and **Central Bureau of Investigation Hyderabad Vs. K. Narayana Rao – reported in (2012) 9 SCC 512**. He therefore submits that Respondent No. 7 cannot be said to have committed aforesaid offence and the subordinate Courts have properly passed the orders and thereby rejected the applications of the petitioner and therefore, as no interference is required in the instant petition, it be dismissed.

10. After hearing the learned Counsel for the parties, it is clear that the petitioner is aggrieved because of the less valuation report submitted by the Valuer, and, therefore, he has preferred complaint before the authorities for initiating prosecution against Respondent Nos. 2 to 7 as per penal provisions. It is to be seen in this case that, the petitioner has availed the loan facility from the Respondent Bank and since his loan account is declared as Non Performing Asset (N.P.A.), therefore, the bank has initiated the proceedings as per Securitisation Act before the D.R.T. Since the petitioner is unable to pay the outstanding loan amount, the mortgaged property came to be attached by the bank. The bank in order to put the said property in auction was required to obtain valuation report from the Valuer. The Valuers are impaneled by the bank, and as per the facts and circumstances of the case they submitted one report as per their settled norms. While preparing the valuation report, they have to submit same in the form of 0.1 as per Rule 8D.

11. In the said form, the columns are given and they have filled up the said column after obtaining the details in respect of the said property in question. The valuation report dated 25.01.2017 is admittedly prepared under the said form 0.1 of the Rules 8.8 D. The said form is having various titles such as "General" in which the names of petitioner, location, description of the property and date of inspection is stated in the said form. Thereafter, there is a Clause of the site of having various details in respect of its location and surrounding facilities of the said site. In the said column there is Part-A and Part-B in respect of valuation of land. The Column No. "3" of the said report is in respect of prevailing rate and column No. "4" is in respect of guideline rate obtained from the Registrar's Office. In the valuation report of the year 2017 in front of column No. 4 i.e. guideline rate obtained from the Registrar's office the value of Rs. 7.50 per Sq.M. is mentioned, whereas in the valuation report submitted by the petitioner himself on 28.04.2018, just after a period of 15 months, the guideline rate obtained from the same date, ready reckoner is shown to be 850 per Sq.M. Therefore, the submission of Mr. Varad, learned Counsel for Respondent Nos. 2 to 6 that even the subsequent valuation report does not value the property at around Rs. 10,00,00,000/- (Ten Crore), which is claimed by the petitioner himself. The hike from Rs. 750 to 850 per Sq. M. within a period of 15 months is justified and therefore, as both the valuation reports are submitted by the separate Valuers, it can be averred that the valuation report of the year 2017 relied by the bank is on the basis of correct valuation and it is not under valued report as claimed by the petitioner. The prevailing market

rate which is quoted in the said report @ Rs. 750/- per Sq.Ft., and per Sq. M. would be around Rs. 7,500/- per Sq.M. rate of the said land, which is highly improbable.

12. It is also observed that the valuation report of the year 2017 submitted initially by Respondent No. 7 is nothing but is professional opinion which would not attract any prosecution under penal provisions, because it is up to the authority to rely upon that report or not. The opinions may vary from person to person. The bank officials who are aggrieved by the said valuation, may seek a report from another Valuer from their panel. Therefore, there is no point in accepting the submission that Respondent Nos. 2 to 7 have in collusion with each other, have committed forgery of the documents by submitting a lower valuation report which has caused economic loss to the petitioner. It is noted that the property in question is still not transferred to any successful bidder and presently it is mortgaged to bank. Therefore, the instant petition fails and I pass following order :

ORDER

(i) The Criminal Writ Petition is dismissed.

(ii) No order as to the costs.

13. Rule is discharged.

(SUSHIL M. GHODESWAR, J.)

mahajansb/