



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 381 OF 2019

Kishor Devidas Bhosale and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Jay S. Chavan Advocate h/f Shri Dhananjay B. Thoke,
Advocate for the Petitioners.

Shri S. M. Ganachari, A.P.P. for the Respondent Nos. 1 to 3.

CORAM : SHAILESH P. BRAHME, J.

DATE : 11TH MARCH, 2025.

FINAL ORDER :

. Though the notices for final disposal have been served upon the respondent Nos. 4 to 7 and 9, none appears for them.

2. Heard both sides. The petitioners are seeking direction to transfer several cases enlisted in Exhibit – A to a particular place either at Latur or Dharashiv for trial.

3. Petitioners are office bearers of multi state cooperative society under name and style as Atidya Arthik Niyojan Multi State Co-op. Credit Society (hereinafter referred as to the 'Society' for the sake of convenience and brevity).

4. The respondent Nos. 4 to 10 are the original

informants/depositors, who have registered first information reports U/Sec. 406, 409, 418 and 420 r/w Sec. 34 of the Indian Penal Code and U/Sec. 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (hereinafter referred as to the 'M.P.I.D. Act' for the sake of convenience and brevity). Most of the petitioners are residents of Pune. They have to attend the proceedings at different places. Investigation is complete in the respective offences and charge sheets are filed. The matters are at the stage of either recording of evidence or hearing.

5. Learned counsel Mr. Jay Chavan holding for Mr. Dhananjay Thoke, learned counsel appearing for the petitioners submits that petitioners have to rush to different places. He would advert my attention to Exhibit – A showing the stage of the proceedings, places and the nature of the offences. He would submit that in view of Sec. 219 of the Code of Criminal Procedure (for short "Cr. P. C.") as well as new Sec. 242 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (for short "B.N.S.S.") , it would be appropriate to club the proceedings either at Latur or Dharashiv to avoid the hardship to the petitioners. He would submit that although offences under the special act i. e. M. P. I. D. Act are involved, that would not be a hurdle for clubbing the proceedings. He would rely on the judgment of the Division Bench of this Court at principal seat at Bombay in the matter of **Pramod Bhaichand Raisonni and others Vs. The State of Maharashtra and others** reported in *2019(2) Bom. C. R. (Cri) 899*. It is informed

that the proceedings at Sr. No. 6 of Exhibit – A are transferred to the Court of learned Additional Sessions Judge, Kallamb, Dist. Osmanabad having registration number as Special Case No. 12 of 2023.

5. Learned Assistant Public Prosecutor submits that it is not permissible to club seven proceedings. Sec. 219 of the Cr. P. C. contemplates clubbing of maximum three proceedings registered within a span of twelve months. Whereas Section 242 of the B. N. S. S. contemplates clubbing of maximum five proceedings. He would submit that as the proceedings are under special statute, it is impermissible to club the proceedings. He would further submit that it would be inconvenient for the different investigating officers and the witnesses to attend the proceedings. It is submitted that in the cited case, the investigating agency which was ultimately appointed was the same i. e. Special Investigating Team (SIT).

6. I have considered rival submissions of the parties. There is no dispute for the details provided by the petitioners at Exhibit – A. It is informed by the learned counsel for the petitioners that in the first offence bearing Cr. No. 37/2016 registered at Police Station Ahmedpur, Dist. Latur, there are ten accused and twenty witnesses. In the second offence bearing Cr. No. 26/2016 of Police Station Murud, Dist. Latur, there are three accused and thirty four witnesses. In the third offence bearing Cr. No. 34/2016 of Police Station Chakur, Dist. Latur there are six

accused and twenty one witnesses. In the fourth offence of Police Station Bembli, Tq. and Dist. Dharashiv, there are nine accused and thirty three witnesses. In the fifth offence of Police Station Dhoki, Dist. Dharashiv there are five accused and eleven witnesses. In the sixth offence registered with Police Station Kallamb, Dist. Dharashiv there are thirteen accused and twenty one witnesses. In the last offence information is not available.

7. The wording used in Section 219 of the Cr. P. C. and Sec. 242 of the B. N. S. S. shows that provisions are directory and not mandatory. The maximum limit prescribed as three offences or five offences respectively can be dispensed with considering the facts and circumstances of the case. In the present case, the members of the Co-operative Society are facing prosecution under the special Act. The convenience of the accused cannot be the sole criteria for clubbing the proceedings. The nature of the proceedings, number of accused, number of witnesses and the investigating officers are the relevant factors. Those are economic offences involving bulky record. It would be convenient to club all the proceedings to be tried at one place. Considering the number of witnesses and the number of accused involved in the offences, it would be in the interest of justice to club the proceedings to be tried at Latur.

8. The Division Bench at principal seat at Bombay dealt with seventy seven cases registered at different places in the State of Maharashtra. Those were serious offences registered under the

M. P. I. D. Act and other provisions also. Despite that, those proceedings were clubbed together and directed to be tried at Jalgaon by the Special Court. It is relevant to reproduce the observations of the Division Bench made in paragraph Nos. 15 and 16 of the judgment, which are as follows :

“15. From perusal of the First Information Report which arraigned the petitioners as accused, we have taken note of the fact that the allegations levelled relate to a similar transaction of the investors depositing their amount in the Multi-State Cooperative Credit Society on a promised return and failure to return the same amounts with the incentives as promised. All the office bearers of the Multi-State Co-operative Credit Society have been arraigned as accused and barring the amount involved in each FIR, the nature of transaction is identical. The provisions of MPID have been invoked against all the accused persons and the charge-sheets are filed in different Courts. Apart from this, the offences under Indian Penal Code have also been invoked and applied. Since there appears to be a commonality of action with which the accused are charged with, it would be in the interest of justice to assign all the matters one of which would also in the interest of the prosecution, prosecuting agency and would also ensure fair and speedy trial to the present petitioners who are arraigned as accused. Except raising a technical objection based on the territorial jurisdiction of the Court, we do not find that the State is opposed to the clubbing of trials on any other ground. Trial of 77 cases pending before different MPID Courts is a time consuming process and if the trials are clubbed together, the number of witnesses cited can also be reduced to the bare minimum as it is not the volume of the evidence that is brought on record is of relevance but it is

the relevant evidence which should form the basis of any trial in determining the guilt of the accused. It is no doubt true that while issuing a direction for clubbing all the offences and the trials, the Court is duty bound to evaluate whether such clubbing would cause prejudice to the accused persons or it would facilitate the trial by taking into consideration the facts involved in the matter. We are of the clear view that trial of 77 Crs by one Court of MPID would rather facilitate the trial and since the interest of several depositors are involved, we are of the clear view that trying all the offences at one place by the same Court would provide a solace to the complainants and speedy disposal of all the offences would assist in achieving the purpose underlying the MPID Act. Further, it would also avert a situation resulting into different final outcomes of distinct trials tried by separate MPID Courts.

16. The Maharashtra Protection of Interest of Depositors Act is a special enactment to ameliorate the interest of the depositors and the said Act is enacted to deal with such financial establishments in the State who are grabbing money received as deposits from public mostly middle class and poor strata of the society, on the promise of unprecedented high attractive interest on maturity and such financial establishments have defaulted and it has cost great public resentment and uproar creating law and order problem in the State. The said legislation intends to cure the malady of thousands and thousands of depositors ramped into a public disorder and the fraudulent default of the accused in such type of offences form a unique class of white collared and organized crime. The transactions of he accused persons who are before us have exploited several depositors and the promise on which the deposits were accepted was never fulfilled. The procedure contemplated

under the Special enactment intends to prevent and protect the precarious loss of the depositors and enable them to recover the amount as early as possible. No solution is available to the innocent unsecured depositors in absence of the procedure prescribed in the enactment. In our considered opinion, it is also the duty of the State to assist the innocent depositors and to protect their interest and effectively take steps to recover the amount and return the same to the persons who have lost their savings. The State being the custodian of the welfare of the subjects cannot be a silentspectator and once a legislation has been brought in, to deal with this and protect the interest of the vulnerable sector, it is the duty of the State to render justice to such depositors and this would be in real sense amounting to securing of socio economic justice to its citizens, which is a solemn duty of every State.

9. The above observations are applicable to our case also. I propose to adopt the same reasons and the course. I find it appropriate to club all these proceedings to be tried at Latur by competent Court i. e. learned District and Sessions Judge, Latur. In that view of the matter the petition succeeds.

10. I, therefore, pass following order :

O R D E R

- (i) The writ petition is allowed partly.
- (ii) The following proceedings shall stand transferred to the competent Court at Latur. Necessary steps be taken to transfer the proceedings and the record to the Court at Latur.

Sr. No.	Cr. No. and date of registration	Name of Police Station	Offences	Name of complainant
01	Cr. No. 37/2016 Dt. 03.02.2016	Ahmedpur, Dist. Latur	Sec. 406, 409 r/w Sec. 34 of the I. P. C & Sec. 3 of the M. P. I. D. Act	Dr. Bapusaheb Tukaram Upase R/o Belur, Tq. Ahmedpur
02.	Cr. No. 26/2016 Dt. 06.02.2016	Murud, Dist. Latur	Sec. 406, 418, 420, 468 of the I. P. C & Sec. 3 of the M. P. I. D. Act	Amar Pundlikrao Nade R/o Murud, Tq. & Dist. Latur.
03.	Cr. No. 34/2016 Dt. 07.02.2016	Chakur, Dist. Latur	Sec. 406, 420, 409 r/w Sec. 34 of the I. P. C & Sec. 3 of the M. P. I. D. Act	Rajkumar Devidas Lonale, R/o Wadgaon (Ekurga), Tq. Chakur, Dist. Latur
04.	Cr. No. 57/2016 Dt. 22.03.2016	Bembli, Tq. & Dist. Osmanabad	Sec. 406, 420, 409 r/w Sec. 34 of the I. P. C & Sec. 3 of the M. P. I. D. Act	Hanumant Suresh Kadam, R/o Lasona, Tq. & Dist. Osmanabad
05.	Cr. No. 13/2016 Dt. 05.02.2016	Dhoki, Tq. & Dist. Osmanabad	Sec. 406, 420, r/w Sec. 34 of the I. P. C & Sec. 3 of the M. P. I. D. Act	Kalyan Vasant Mali, R/o Tadvalla Kasbe, Dhoki, Dist Osmanabad
06.	Cr. No. 19/2016 Dt. 05.02.2016	Kalamb, Dist. Osmanabad	Sec. 406, 420, r/w Sec. 34 of the I. P. C & Sec. 3 of the M. P. I. D. Act	Ambadas Baburao Gambhire, R/o Itkur, Tq. Kalamb, Dist. Osmanabad
07.	Cr. No. 54/2016 Dt. 06.02.2016	Gangakhed, Dist. Parbhani	Sec. 406, 420 r/w Sec. 34 of the I. P. Code.	Atul Nandkishor Udavant R/o Gangakhed

(iii) The transferee Court shall follow the same procedure which has been followed by the earlier Courts and as permissible in law.

[SHAILESH P. BRAHME J.]

bsb/March 25