IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 912 OF 2024

Dilipkumar s/o. Harichand Jain
Age 70 years, Occu. Business,
R/o. Jainagar, Zilha Peth, Jalgaon .. Petitioner

Versus

1. Satyanarayan s/o. Gopal Khatod
Age 69 years, Occu. Estate Broker,

2. Mahesh s/o. Satyanarayan Khatod,
Age 42 years, Occu. Estate Broker,
Both R/1 and 2 R/o. 41, Satyaprem,
Near Maroti Mandir, Ganesh Colony,
Jalgaon, Taluka and District Jalgaon

3. Nitin s/o. Premchand Raisoni,
Age 52 years, Occu. Money Laundering,

4. Bharti w/o. Nitin Raisoni,
Age 50 years, Occu. Money Laundering,
Both R/3 and 4 R/o. Pratap Nagar,
Near Anglo Urdu High School,
Jalgaon, Taluka and District Jalgaon .. Respondents

Advocate for Petitioner : Mr. Shivraj B. Kadu

CORAM : SACHIN S. DESHMUKH, J.
DATE : 21-11-2025

PER COURT:-

1. Heard the learned counsel for the petitioner.

2. The petitioner has raised challenge to the order dated 22.02.2023 rendered by the learned Additional Sessions Judge,

Jalgaon, in Criminal Revision Application No.34 of 2022, confirming the order dated 24.02.2021 rendered by the learned Judicial Magistrate First Class, Jalgaon, below Exhibit-1 in Regular Criminal Case No.257 of 2007, dismissing the complaint under Section 203 of the Code of Criminal Procedure ("Cr.P.C.", for short).

3. The petitioner/original complainant had preferred a complaint under Section 156(3) of the Code of Criminal Procedure before the learned Chief Judicial Magistrate against the respondents/accused for the alleged offences under Sections 418, 420, 423 and 406 read with Section 34 of the Indian Penal Code and Section 32B of the Bombay Money Lenders Act.

4. It is alleged that the petitioner and his wife are the owners of agricultural land bearing Gat No.101/4/1 and 2 situated at Mohadi, Jalgaon. The petitioner had borrowed a loan from Dena Bank and had mortgaged the said lands towards security. It is further stated that the complainant was in dire need of money to repay aforesaid loan. Since the petitioner and the respondents were acquainted with each other, an agreement to sell was executed between them.

5. In the interregnum, the Dena Bank Jalgaon had filed a suit for recovery of debt against the petitioner in Debt Revenue Tribunal, Aurangabad. Simultaneously, it was agreed between the petitioner and the respondents that to execute the agreement to

the consideration amount would be paid to Dena Bank by the respondents/accused on behalf of the petitioner. However, the respondents failed to comply. Therefore, the complaint was presented before the learned Magistrate against the respondents alleging breach of trust, unlawful money lending practices and other offences.

6. The learned Magistrate, considering the material on record, noted that the offence under Sections 420 and 406 of the Indian Penal Code to be cognizable and directed the concerned Investigating Officer to investigate the case vide order dated 13.11.2007. Accordingly, the police report was submitted before the learned Magistrate stating that no case was made out against the accused as the dispute was civil in nature. Resultantly, the petitioner presented a protest petition challenging the police report.

7. The learned Magistrate, after appreciating the police report and evidence on record, noted that the complaint was essentially of civil nature and there was no *prima facie* evidence against the respondents having indulged in unlawful money lending activities. Thus, the complaint came to be dismissed as per Section 203 of the Cr.P.C.

8. Aggrieved by the same, the petitioner has preferred criminal revision application under Section 397 and 399 of the Cr.P.C.

before the Sessions Court, Jalgaon. However, same came to be rejected by endorsing the order and findings rendered by the learned Magistrate. Hence, the petitioner approached this Court challenging the said order.

9. Learned counsel for the petitioner submits that the respondents have intentionally failed to fulfill the terms of agreement and have caused wrongful loss to the petitioner. The deliberate cancellation of demand draft issued towards repayment of the debt by the respondents, has resulted into breach of trust. Hence, the respondents ought to have been prosecuted for the alleged offence and the Courts below erred while passing the orders under challenge.

10. Admittedly, the alleged incident is of the year 2005, while the complaint was preferred in the year 2007, whereas, the complaint is dismissed in the year 2021 and revision is preferred in the year 2022. As such, almost 20 years have been passed since the alleged incident. Moreover, the police report indicates that the dispute essentially is of civil nature and the same has been duly appreciated by the learned Magistrate while dismissed the complaint.

11. Despite the passage of several years, the petitioner has taken no alternate appropriate action against the respondents. Further, there has been delay while preferring the revision

application which was condoned by the revisional court. Unequivocally indicates that the delayed conduct of the petitioner goes to show that the present proceedings against the respondents are initiated with malicious intent and to settle score.

12. Perusal of the order under challenge indicates that all the aforesaid aspects are rightly considered and dealt in detail with by the revisional court. Nevertheless, absence of ingredients of offence of criminal breach of trust as well as cheating are absent. Mere agreement by itself does not create any right, title or interest in property. In view of the same, the Courts below are justified in dismissal of the complaint.

13. Thus, the petitioner's attempt to give a cloak of criminality to a civil dispute needs to be deprecated at the threshold, as has been rightly recorded by the Courts below. Hence, no interference is warranted in the well reasoned order rendered by the revisional court.

14. Accordingly, the criminal writ petition sans merit and the same is dismissed.

[SACHIN S. DESHMUKH, J.]

rrd