



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1968 OF 2019

THE STATE OF MAHARASHTRA
VERSUS
ANIL BHIMSING PATIL,
MANSING JAYSING PATIL,
VIJAYSING THANSING PATIL,
DNYANESHWAR DHONDU MAHAJAN,
MAHENDRASING DHANSING PATIL,
MAHENDRASING DHARAMSING PATIL,
JAGDISH PUNDLIK PATIL,
DAGADU SANTOSH PATIL,
KRUSHNA RAJARAM PATIL,
DEVAYANI SONUSING PATIL,
RAJAN JAGANNATH CHAUDHARI,
ROHIDAS WAMAN KAPADANE,
SANGITA RAMESH PATIL, and
SHEKHAR KASHINATH CHAUDHARY.

...
Mrs. Anuradha S. Mantri, APP for the petitioner/ State.
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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 21 November 2025

P. C. :-

1. This petition filed by the State of Maharashtra is pending since 2019 and it was neither circulated nor listed on the board for all these years. Hence, even notices were also not issued by this Court. Today, for the first time, the petition is listed on the board.

2. By this petition, the State is challenging the order dated 21.08.2018 passed by learned Additional Sessions Judge, Jalgaon, in Criminal Revision Application No.74/2017 thereby, allowing the said revision and discharging the present respondent Nos.1 to 13/ original accused from the offences punishable under Sections 406, 409, 420 read with Section 34 of the Indian Penal Code, by setting aside the order dated 02.03.2017 passed by learned Chief Judicial Magistrate, Jalgaon, below exhibits 80 and 129 in RCC No.329/2013.

3. Respondent No.14/ original complainant had filed the said private complaint against Maharana Pratap Credit Cooperative Society and its Chairman, Directors and Manager contending therein that when the complainant's father Late Kashinath Chaudhary was serving in MSRTC, he got information that the said credit society is giving more interest on the investments. Therefore, he invested the amounts vide 20 different fixed term deposits in the said credit society. Though the said deposits were matured, the credit society did not refund the amount. However, on 22.08.2012, the complainant's father expired due to heart attack. The complainant demanded money

on many occasions, but the accused persons did not repay the amount. Therefore, the complainant filed the complaint before the Superintendent of Police on 07.05.2012, however, the police did not take any action. The complainant, therefore, filed the present private complaint before the learned Chief Judicial Magistrate, Jalgaon, who directed the police to conduct investigation under Section 156(3) of the Code of Criminal Procedure. Accordingly, the police registered an offence and filed the final report of investigation under Section 173 of the Cr.P.C., which is registered as RCC No.329/2013 before learned Chief Judicial Magistrate, Jalgaon.

4. The accused persons had filed two separate applications exhibits 80 and 129 for discharge under Section 239 of the Cr.P.C. before learned Magistrate. However, learned Magistrate vide common order dated 02.03.2017 rejected the said applications for discharge. Being aggrieved by the same, the accused persons had filed the revision before learned Sessions Judge, which came to be allowed vide the impugned order dated 21.08.2018. Hence, being aggrieved by the same, the State has filed this petition.

5. I have heard the learned APP for the State, who has vehemently argued that the impugned order is liable to be quashed and set aside since learned Sessions Judge has not considered the evidence on record properly and has erroneously passed the impugned order. With her assistance, I have gone through the record available.

6. Learned Sessions Judge while allowing the revision, was pleased to observe that the complainant's father had himself invested the money for getting more interest than from other banks and the Investigating Officer has neither collected any advertisement, which the accused persons have published for attracting investors, nor examined any independent witness to show that the accused persons have utilized the said amount for their own use or gained any unlawful benefit. Even the statement of the employees of the said credit society or the auditor has not been recorded. No evidence is produced on record to make out the ingredients of alleged offences. The learned Sessions Judge has rightly observed that learned Magistrate has not considered the legal position while deciding the discharge applications. Learned Magistrate ought to have considered the provisions of

Section 239 of the Cr.P.C. and accordingly, upon receipt of police report and documents presented before it, learned Magistrate ought to have examined the record and after hearing both sides ought to have arrived at the conclusion whether, the charge is groundless or not. However, learned Magistrate has not followed various guidelines laid down by the Honourable Supreme Court of India while rejecting the discharge applications. At the stage of Section 239 CrPC, the Court is required to consider whether the materials in the police report, if taken at face value, disclose the commission of an offence. If the materials do not *prima facie* establish the ingredients, the accused is entitled to discharge. It is, therefore, apparent that the observations of learned Sessions Judge are reasonable and based on evidence on record. Learned Sessions Judge has correctly analyzed the judgments cited before it and has rightly passed the impugned order.

7. In view of the above discussion, no case for interference under Article 227 of the Constitution of India read with Section 482 CrPC is made out. The Writ Petition fails and it is, accordingly, dismissed.