

Harish

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 3776 OF 2019

Subhash Sureshchandra Deshmukh	...Petitioner
Versus	
The State Of Maharashtra and Anr.	...Respondents

HARISH
VITHAL
CHAUDHARI

Digitally signed
by HARISH
VITHAL
CHAUDHARI
Date:
2025.10.14
11:02:47 +0530

Adv. S. C. Mangle for the Petitioner.
Mr. Vikrant V. Phatate for Respondent No. 2.
Mr. A. A. Takalkar, APP for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th OCTOBER, 2025

P.C.:

1. The challenge in this writ petition is the order passed by learned Additional Sessions Judge, Pandharpur, (for short “learned Judge”) dated 28th March, 2019 in Criminal Revision Application No. 56 of 2017.

2. It is the contention of learned counsel for the Petitioner that the FIR was lodged against the petitioner and co-accused on the basis of private complaint filed under Section 156(3) of the Code of Criminal Procedure, 1973 (for short “CrPC”). In the said complaint, all allegations are made against co-accused. The

allegations against the petitioner are that he had given letter to the first informant and it was signed by the petitioner and accused no. 3. Except that, there are no allegations against the petitioner that he induced the first informant-respondent no.2 to invest amount in the Mahatma Jotirao Phule Gramin Bigarsheti Sahakari Patsanstha Maryadid (for short "said Patstantha"). The first informant-respondent no. 2 deposited the amount in the said Patsanstha i.e. accused No. 1. The petitioner has no concern with transaction held between first informant-respondent no.2 and co-accused, but these facts are not considered by the Courts below and has passed the impugned orders not discharging the petitioner from the charges leveled against him. Hence, requested to allow the petition.

3. Learned APP along with learned counsel for respondent no. 2 submits that the petitioner and co-accused are in collusion with each other. The petitioner was aware about the cheating done by the co-accused with the first informant-respondent no.2. The Courts below have passed passed well reasoned orders. No interference is required in it and requested to dismiss

the petition.

4. I have heard all the learned counsel. Perused the impugned orders.

5. The first informant-respondent no. 2 had filed the complaint against the petitioner and co-accused under section 409, 420, 417 and 418 read with section 34 of the Indian Penal Code, 1860. It is Alleged that first informant-respondent no. 2 had deposited the amount with the said Patsanstha. The co-accused are the office bearers of the said Patsanstha. But after deposit of amount, the said amount is not returned to the first informant-respondent no. 2. It is alleged that petitioner had given letter to the first informant stating that the said Patsanstha is going under the rough phase and the first informant will get the amount. The said letter is signed by the petitioner and accused no. 3. On the basis of this letter, the first informant-respondent no.2 is stating that the petitioner was in collusion with the co-accused. In my view, this letter does not mention about investing the amount by the first informant-respondent no.2 in the said Patsanstha of whom the co-accused are the office bearers. The letter given by the petitioner cannot

be a ground to connect the petitioner with the act done by the co-accused. In entire complaint, the allegations of cheating are against the co-accused. There is no material produced on record to connect the petitioner with the alleged crime. The learned Courts below have not considered this fact. It is the settled principle of law that for framing of charge, some material is required. There is no material on record to frame the charge against the petitioner. In view of above, I pass following order.

O R D E R

- I. Writ Petition is allowed.
 - II. The petitioner is discharged from the Regular Criminal Case No. 201 of 2015.
6. Writ Petition is disposed off.

[SHIVKUMAR DIGE, J.]