

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

CRIMINAL WRIT PETITION NO. 1157 OF 2022

1. Sar Senapati Santaji Ghorpade Sugar
Factory Ltd. Through Directors
 2. Vijaysingh Yuvaraj Patil
 3. Navid Hasan Mushrif
 4. Aabid Hasan Mushrif
 5. Sajid Hasanso Mushrif
- ...Petitioners
- Versus
1. The Union of India
 2. The State of Maharashtra
- ...Respondents

WITH
CRIMINAL WRIT PETITION NO. 1178 OF 2022

1. Nilofar Mateen Mangoli
 2. Milan Ganpati Farakate
 3. Savita Pratap Mane
 4. Prachi Rajendra Bhandhari
- ...Petitioners
- Versus
1. The Union of India
 2. The State of Maharashtra
- ...Respondents

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Mr. Abad Ponda, Senior Advocate a/w Mr. Prashant Patil, Swapnil Ambure, Mr. Adit Soni, Mr. Pritesh Kharade, Ms. Harshada P, and Mr. Sajid A. Bagwan for Petitioners.

Mr. Aadarsh Vyas, ASG a/w Mr. S.H. Yadav for the Respondents.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 6th NOVEMBER, 2025

P.C.

1. Heard learned Senior Counsel for Petitioners and learned A.S.G. for the Respondent No.1.

2. The challenge in these Writ Petitions are to the order passed by the learned Special Court under the Companies Act in Special Case No.240 of 2022. By the impugned order of issue process is passed against the Petitioners. As challenge in both writ Petitions are same, hence, I am deciding both these Writ Petitions by this common order.

3. It is contention of learned Senior Counsel for Petitioners that the Petitioners have charged under Sections 448 r/w Section 447 of Companies Act, 2013 which pertains to fraud on the ground of non disclosure of transaction with struck off Companies in financial returns, introduced for the first time only through a notification dated 24th March 2021, issued under Section 469 of the Companies Act, effecting an amendment to Schedule III of the Act. The said amendment was made effective from 1st April 2021 and applies prospectively to financial statements for the period of 1st April 2021 to 31st March 2022 and onwards. The alleged transactions against the Petitioners occurred prior to year 2021-2022, hence alleged offence would not be applicable. The learned Sessions Judge has not considered this fact while passing the issue process order, hence requested to allow the Writ Petitions.

4. It is contention of learned ASG that the learned Sessions Judge has passed well reasoned order. No interference is required in it and requested to dismiss the Writ Petitions.

5. I have heard both the learned Counsels. Perused the impugned order. It appears from the record that the Petitioners have been prosecuted for the offence committed under the Companies Act for non disclosure of transaction with struck off Companies in financial returns. The said allegations pertain to the year 2013-2014. As per the amendment dated 24th March 2021 issued under Section 469 of the Companies Act, effecting an amendment to Schedule III of the Act. The said amendment was made effective from 1st April 2021 and applies prospectively, not retrospectively, but this fact is not considered by learned Sessions Judge.

6. In view of above, I pass the following order :

ORDER

- (i) Both Writ Petitions are allowed;
- (ii) The issue process order dated 1st April 2022 passed by the learned District Judge-1, Pune in Special Case No.240 of 2022 is quashed and set aside.

7. The Petitions are allowed in the aforesaid terms and is accordingly disposed off.

(SHIVKUMAR DIGE, J.)