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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2367 OF 2024
WITH
WRIT PETITION NO.2415 OF 2024
WITH
WRIT PETITION NO.2366 OF 2024

Renuka Lawns ... Petitioner

V/s.

The Seva Vikas Cooperative Bank Limited & Anr. ... Respondents

Mr. Ajay Bhise with Mr. Tejas Dhotre, and Ms. Dipali K. Kedar for the petitioner.

Mr. Siddheshwar Biradar for respondent No.1.

Ms. M.S. Srivastava, AGP for respondent No.3-State in wp/2367/2024.

Ms. S.D. Chipade, AGP for respondent No.3-State in wp/2415/2024.

Ms. Savina R. Crasto, AGP for respondent No.3-State in wp/2366/2024.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 27, 2025

P.C.:

1. The petitioner challenges the order dated 20 August 2019 passed by the Deputy Registrar, Cooperative Societies. The order arises from an application filed under Section 340 of the Criminal Procedure Code read with Section 195 of the Indian Penal Code.

2. The record shows that respondent No.1 Bank initiated proceedings under Section 101 of the Maharashtra Cooperative

Societies Act, 1960. The Bank relied on an account extract filed with the application. After the petitioner filed an interim reply, the Bank sought amendment of the claim to substitute the amounts in the main application. The petitioner states that the Bank made false statements in the original application and later attempted to correct those statements by amendment. The petitioner claims that these statements were made on oath and constitute perjury. According to the petitioner, by virtue of Chapter VIII-A of the Maharashtra Cooperative Societies Rules, 1961, the Registrar functions as a Tribunal and is therefore a Court for the purpose of Section 195 read with Section 340 of the Criminal Procedure Code. The petitioner seeks an inquiry under Section 340 and filing of a complaint before the Judicial Magistrate First Class against the Manager of the respondent Bank.

3. The Registrar, by the impugned order, held that the amendment in the Section 101 proceedings does not impose any additional monetary liability on the petitioner. The Registrar also recorded that the nature of the dispute has not been challenged and no prejudice is caused to the petitioner. The Registrar further held that the Deputy Registrar has no authority to hold an inquiry under the Criminal Procedure Code. Based on these findings, the Registrar rejected the petitioner's application. The petitioner has therefore approached this Court.

4. Learned counsel for the petitioner submitted that the petitioner is not contesting the recovery certificate already issued. He pointed out that the petitioner voluntarily surrendered the mortgaged property to the respondent Bank in 2020. He submitted that two recovery applications filed by the Bank were rejected because the claims carried incorrect and inconsistent figures. He submitted that the Bank amended the claim only after the petitioner brought to notice the discrepancies in the recovery calculations. He argued that an application under Section 101 requires the Authorized Officer to place before the authority correct and complete figures supported by proper documents. He argued that if the Bank places inflated figures or withholds correct figures at the initial stage, the authority should examine the prayer under Section 340 read with Section 195 of the Criminal Procedure Code. He sought setting aside of the impugned order.

5. Learned counsel for the Bank supported the impugned order. He submitted that the amendment only corrected certain figures in the claim and did not create any further liability for the petitioner. He submitted that no prejudice has been caused to the petitioner. He relied on the Constitution Bench judgment of the Supreme Court in *Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370*. He pointed out that in paragraph 23, the Supreme Court held that the Court is not bound to file a complaint for an offence under Section 195(1)(b) unless the Court finds it necessary in the interest of justice. He submitted that the Supreme Court clarified that the course of directing a complaint is not routine. He pointed out paragraph 26, where the Supreme Court observed that Courts usually refrain from directing filing of criminal complaints and adopt such a course only in rare situations. He submitted that in the present case, the facts do not warrant filing of a complaint. He therefore prayed for dismissal of the writ petition.

6. I have considered the pleadings and the rival submissions. The issue before this Court is narrow. The question is whether the facts disclosed by the petitioner justify action under Section 340 of the Criminal Procedure Code. The answer depends on two conditions. First, whether material placed before the authority shows commission of an offence falling under Section 195. Second, whether it is necessary in the interest of justice to direct prosecution.

7. The record shows that the respondent Bank filed proceedings under Section 101 of the Maharashtra Cooperative Societies Act. The Bank placed certain figures in the original application. Later, on noticing errors, the Bank filed an application to amend the figures. The amendment did not introduce any new claim. It only corrected the amounts. The Registrar has recorded that the amendment did not increase the liability of the petitioner. The nature of the dispute also remained the same.

8. The petitioner alleges that the very act of filing incorrect figures amounts to false evidence. The petitioner has relied on the fact that the Bank corrected the figures only after he pointed out the error. This circumstance alone does not establish that the Bank intended to mislead the authority. An error in calculation or a mistake in figures does not automatically create a criminal offence. There must be material to show intention to deceive. The petitioner has not placed material of that nature.

9. I have examined the principles laid down in *Iqbal Singh Marwah*. Applying those principles to the present case, the following position emerges.

10. The Constitution Bench has settled the law that the power under Section 340 CrPC is not triggered merely because a party has made a statement which later turns out to be incorrect. The Court must form a clear opinion that prosecution is necessary for the administration of justice. The judgment clarifies that such action is to be taken only in situations where intentional falsehood strikes at the purity of the judicial process. The Supreme Court further notes that Courts ordinarily act with restraint in directing criminal prosecution, and such direction is to be issued only when the circumstances show clear misuse of the judicial process in a manner that affects the decision-making itself.

11. Applying these principles to the present facts, no circumstance shows that the incorrect figures in the Bank's original application were intended to mislead the Registrar. The Bank corrected the figures by filing an amendment. The Registrar has recorded that the amendment did not increase the petitioner's liability. He has also found that the nature of the claim remained the same and that no prejudice was caused to the petitioner.

12. The petitioner has relied only on the fact that the corrections were made after he pointed out the error. This does not establish that the Bank acted with intention to give false evidence. A mistake in the amount, without more, cannot attract criminal prosecution. Section 340 CrPC requires something more than an error. It requires material which shows deliberate falsehood affecting the justice process. The Supreme Court has made it clear that Courts do not start criminal prosecution for every incorrect statement. They do so only when the facts compel such a course for protecting the purity of the proceedings.

13. In the present case, the proceedings under Section 101 of the MCS Act have continued. The petitioner has surrendered his mortgaged property. The amended figures did not cause any legal injury. There is no material to indicate intentional deception. There is also a statutory bar on the Registrar conducting an inquiry under the Criminal Procedure Code. These factors show that this matter does not fall within the category contemplated by the Constitution Bench.

14. Therefore, on applying the test of expediency in the interest of justice, the facts of this case do not justify the initiation of action under Section 340 CrPC. The reasoning of the Supreme Court in *Iqbal Singh Marwah* supports the conclusion that the Registrar acted correctly in refusing to proceed with a criminal complaint.

15. The facts of the present case do not show that any decision of the Registrar was affected due to the incorrect figures. The Registrar has found that the amendment did not prejudice the petitioner. The petitioner himself has surrendered the mortgaged property. The recovery proceedings have moved forward. There is nothing to indicate that the alleged error has caused injustice that requires criminal prosecution.

16. In these circumstances, I find no material to hold that it is expedient in the interest of justice to direct filing of a complaint. The Registrar has taken a correct view. His order calls for no interference.

17. Hence, following order is passed:

(a) The writ petitions stand dismissed.

(b) The impugned order dated 20 August 2019 passed by the Deputy Registrar, Cooperative Societies is upheld.

(c) No order as to costs.

(AMIT BORKAR, J.)