



Judgment

424 wp174.25

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL WRIT PETITION NO.174 OF 2025

Lionlender Finance Pvt.Ltd.,
A Non-Banking Financial Company (NBFC),
registered with the Reserve Bank of India,
through its authorized representative,
branch manager, Mr.Nitin John Bosco John,
registered office at : plot No.223, shop No.04, 05, 06,
first floor, Umiya Leela Apartment, Near
Lakadganj Garden, Chapru Nagar,
Lakadganj, Nagpur,
Maharashtra-440008. **Petitioner.**

:: VERSUS ::

1. State Police Complaints Authority, Maharashtra State,
Mumbai.
MTNL Cooperage Telephone Exchange Building, 4th
Floor, Maharshi Karve Road, Nariman Point, Mumbai,
Maharashtra-400021.
2. Shri Sandip Chandewar, Police Inspector, Lakadganj
Police Station, Nagpur.
3. Shri Harsha A.Poddar, Superintendent of Police, Nagpur.
4. Shri Ravindar Singhal,
Commissioner of Police, Nagpur. **Respondents.**

Ms.Mansi VBali, Counsel for the Petitioner.
Shri N.R.Rode, Additional Public Prosecutor for the State.

CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 26/06/2025

PRONOUNCED ON : 07/07/2025

JUDGMENT

1. Heard. **Rule.** Heard finally by consent of learned counsel appearing for parties.

2. By this writ petition, the petitioner has challenged order dated 18.12.2024 passed by the State Police Complaints Authority, Maharashtra State, Mumbai (SPCA) in SPCA/Complaint Case No.164/2024.

3. It is contention of the petitioner that the petitioner is “A Non-Banking Financial Company (NBFC)” which granted loan of Rs.25.00 lacs to “M/s.G.B.Enterprises” through Prop. Mrs.Neeta M.Dawda and other three co-accused by sanction letter dated 5.6.2023 for business

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purpose on the basis of Income Tax Returns and Balance Sheet signed by the co-accused. On due execution of documents, loan was sanctioned on 7.6.2023. However, said debtors hatched conspiracy and fraudulently induced complainant to sanction business loan of Rs.25.00 lacs by misrepresenting financial credibility of “M/s.G.B.Enterprises” showing annual turn over of Rs.5.00 crores, assets at Rs.44.00 lacs falsely and Balance Sheets are also prepared accordingly. As per contentions of the petitioner, Director of the said company and the company are the willful defaulters and not paid installments as agreed. It was willful default which is recognized as an offence in view of RBI’s Master Circular on Willful Default. Moreover, the company and Directors have diverted loan amount for other purposes without knowledge of the petitioner and thus they committed the offence of criminal breach of trust, misappropriation of

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money, and cheating in collusion with each other. Cheques issued against monthly installments were also dishonoured and, therefore, the petitioner approached the Lakadganj Police Station, Nagpur and the Economic Offence Wing on 1.10.2024. However, the grievance of the petitioner was not taken into consideration although the said complaint disclosed commission of cognizable offence and the same was not registered. It was further reported to the petitioner by the concerned police officers that the subject-matter of the complaint lodged by the petitioner is of a civil nature and, therefore, the petitioner approached the SPCA for taking an appropriate action against the concerned police officers and was requested to direct the concerned police officers to register the offence.

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4. The SPCA, on perusal of the complaint, observed that the complaint appears to have taken place on 5.6.2023/7.6.2023 when the above referred business loan was sanctioned to the opponent and when they executed documents. In view of Regulation No.4(b) of SPCA Regulations, there is a bar to entertain complaints when presented after one year from alleged act and/or inaction and dismiss complaints. Being aggrieved with the same, the present writ petition is filed seeking initiation of disciplinary proceeding against delinquent officers for willful negligence in performing their statutory duties and Director to take serious action against the police officers for superficially rejecting the complaint.

5. Heard learned counsel Ms.Mansi V.Bali for the petitioner and learned Additional Public Prosecutor Shri N.R.Rode for the State.

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6. Learned counsel for the petitioner submitted that the authority has misinterpreted Regulation No.4(b) of the Regulations 2017 which specifically states, when complaint is presented after one year from alleged act/inaction.

7. In the present case, inaction on the part of the police officers is on 1.10.2024 and 3.10.2024. The complaint is filed by the petitioner on 26.11.2024 . She specifically submitted that in view of Section 22-Q(1)(a) of the Maharashtra Police (Amendment) Act, 2024 read with Sections 173 to 176 of the BNSS 2023 and Sections 198 to 201 of the BNS 2023, strict action against police officers for the willful negligence on their part while discharging their statutory and mandatory duties and acting in consonance with the accused. She submitted that the authority has not taken into consideration that

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inaction was on the part of the police officers on 1.10.2024 and 3.10.2024 and lastly on 12.11.2024. She also invited my attention towards definitions given in Regulation No.2 of the SPCA Regulations 2017. As per Clause (n) of the said Regulation No.2, “misconduct” means any willful breach or neglect by a police officer of any law, rule and regulation applicable to the police that adversely affect the rights of any member of public, as defined in Section 22-Q(1)(a)(i to viii) of the Act. She submitted that not taking cognizance by the police officer covers under the definition of “misconduct”. In view of that, necessary directions be given to the police officers to register the offence.

She also placed reliance on the decision of the Hon’ble Apex Court in the case of **Prakash Singh and ors vs. Union of India and ors**, reported in (2006)8 SCC 1

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wherein it is held that the commitment, devotion and accountability of the police has to be only to the Rule of Law. The supervision and control has to be such that it ensures that the police serves the people without any regard, whatsoever, to the status and position of any person while investigating a crime or taking preventive measures. Its approach has to be service oriented, its role has to be defined so that in appropriate cases, where on account of acts of omission and commission of police, the Rule of Law becomes a casualty, the guilty Police Officers are brought to book and appropriate action taken without any delay.

8. Learned Additional Public Prosecutor for the State supported the order impugned in the petition.

9. It is pertinent to note that pursuant to recommendations and directions given by the Hon'ble

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Apex Court in the case of **Prakash Singh and ors vs. Union of India and ors** *supra*, the Police Complaints Authority was constituted. Accordingly, the Maharashtra Police Act, 1951 was amended by the Maharashtra Police (Amendment and Continuance) Act, 2014 and Sections 22P, 22Q(1)(a) and Section 22R were introduced apart from other provisions. Accordingly, SPCA has been constituted by the State Government to entertain the complaint against police officers and police personnel who failed to perform their duties and functions. Section 22Q(1)a) reads thus:

“22Q. (1) The State Police Complaints Authority shall exercise the powers and perform the functions as follows : –

(a) inquire *suo-moto* or on a complaint against Police Officers
presented to it by, –

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(i) a victim or any member of his family or any other person on his behalf;

(ii) the National or State Human Rights Commission; and

(iii) the police, into the complaint of, –

(i) death in police custody;

(ii) grievous hurt as defined under section 320 of the Indian Penal Code:

(iii) rape or attempt to commit rape;

(iv) arrest or detention without following the prescribed procedure;

(v) corruption;

(vi) extortion;

(vii) land or house grabbing; and

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(viii) any other matter involving serious violation of any provision of law or abuse of lawful authority”.

10. Section 22R(1) and (4) deals with procedure followed by the SPCA on completion of enquiry and steps to be taken by the State Government upon receiving SPCA's enquiry report.

11. Perusal of the aforesaid provisions shows that it is evident that the mandate of the SPCA is to conduct an enquiry against police officers with respect to the acts/offences spelt out in the said provisions.

12. Here, in the present case, in view of Regulation 4(b), the complaint is dismissed by the authority.

13. Regulation 4 of SPCA Regulations 2017, is reproduced for reference:

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“4. Complaints not ordinarily entertainable. - The Authority shall dismiss, *in limine*, complaints of the following nature, namely:--

(a) vague, anonymous, pseudonymous, illegible, trivial or frivolous:

(b) when the complaint is presented after one year from alleged act and or inaction;

(c) shall not inquire in Civil disputes, etc. except against Police Officers indulging in house or land grabbing, etc.;

(d) relate to service matters or labour or industrial disputes;

(e) matter is sub-judice before a court or any tribunal;

(f) matter is covered by a judicial verdict or decision of the Tribunal or any other judicial or Quasi-Judicial Authority;

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(g) matter is outside the purview of the State Authority, and

(h) the complaint has not been made to senior supervisory officer or one months has not elapsed since filing of such complaint.”

14. Thus, in view of Regulation 4(b), the complaint is to be presented after one year from alleged act/inaction.

15. In the present case, the alleged act refers to the inaction on the part of the police officers. The authority has taken into consideration the date when the loan was disbursed to the debtor company. For filing complaint by the petitioner, cause of action arose on 1.10.2024, 3.10.2024, and lastly on 12.11.2024 when the police officers of Lakadganj Police Station have not taken any action on the complaint filed the petitioner and, therefore, limitation would start from the date when there

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was inaction on the part of the police officers and not from 5.6.2023/7.6.2023.

16. In the present case, the important aspect is the alleged act of the police officers and inaction on their parts is of dated 1.10.2024 and 3.10.2024 and lastly on 12.11.2024

17. In this view of the matter, as the authority has not considered complaint on merits and has dismissed the same as not within limitation, it would be appropriate to remand back the complaint to the SPCA for reconsideration and to decide it on its own merits.

18. As such, I proceed to pass following order:

ORDER

(1) The Criminal Writ Petition is **allowed**.

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(2) SPCA/Complaint Case No.164/2024 is remanded back to the SPCA for reconsideration and to dispose of the same on merits.

Criminal Application(s), if any, also stand(s) **disposed of.**

Rule accordingly.

Petition stands **disposed of.**

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!