



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

CRIMINAL APPLICATION (APL) NO.647 OF 2025

APPLICANTS

- : 1. Balkrishna Kemaji Khobragade,**
aged 55 years, occ. Service, R/o.
Quarter no. NM-265, WCL Colony,
Shakti Nagar, Durgapur, Tah. & Dist.
Chandrapur.
- 2. Chituranjan S/o Rambhadan Kewat,**
aged 47 years, deceased. Service, R/o.
Quarter no. NM-315, WCL Colony,
Shakti Nagar, Durgapur, Tah. & Dist.
Chandrapur.
- 3. Prakash S/o Krushnaji Khobragade,**
aged 51 years, occ. Service, R/o.
Behind Pawansut Dawa Bazar, Nagina
Bagh, Ward No.3, Tah. & Dist.
Chandrapur.
- 4. Anil s/o Ramkrushna Malve,**
aged about 59 years, occ. Service, R/o.
Quarter no. DRM-103, WCL Colony,
Shakti Nagar, Durgapur, Tah. & Dist.
Chandrapur.

..VERSUS..

NON-APPLICANTS

- : 1. State of Maharashtra,**
through Police Station Officer, Police
Station, Durgapur, Tah. and Dist.
Chandrapur.
- 2. Divisional Joint Registrar, Co-**
operative Societies, Dhanwate
Chambers, Sitabuldi, Nagpur.
- 3. District Co-operative Election Officer**

and District Deputy Registrar, Co-operative Societies, Bhuvikas Bank Building, Civil Lines, Chandrapur.

4. Assistant Registrar, Co-operative Societies, Bhuvikas Bank Building, Civil Lines, Chandrapur.

Mr. P. D. Meghe, Advocate for Applicants.
Ms S. S. Dhote, Addl. P. P. for Non-Applicants/State.

CORAM : **URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.**

RESERVED ON : **3rd NOVEMBER, 2025.**

PRONOUNCED ON : **7th NOVEMBER, 2025.**

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

. Heard.

2. **Admit.** Heard finally with the consent of learned Counsels for the parties.

3. This is an application under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as, “the BNSS, 2023”) seeking to quash the First Information Report No.0311 of 2023 and the final report (charge-sheet) No.8 of 2023 filed by the non-applicant No.1-Police Station Officer, Police Station Durgapur, Tah. and Dist. Chandrapur culminating

into a Summary Criminal Case No.1119 of 2024 before the learned Chief Judicial Magistrate, Chandrapur.

4. As per the said First Information Report and the consequent charge-sheet filed on record, the offences complained of are under Sections 146, 147 and 148 of the Maharashtra Co-operative Societies Act, 1960 alongwith Sections 188 and 34 of the Indian Penal Code, 1860. It is the case of the respondents herein the non-applicants that consequent to the order passed by the non-applicant No.3, it ordered the non-applicant No.4 to initiate an action against the petitioners herein the applicants under the provisions of the Maharashtra Co-operative Societies, Act, 1960 (hereinafter referred to as, “the Act of 1960”) on the ground that the applicants were engaged in breach of Model code of conduct. On the basis of the complaint submitted by the non-applicant No.4, the non-applicant No.1 registered the First Information Report as stated above which is challenged in the present application.

5. As per the contents of the First Information Report, the applicants are office bearers of a Society namely Padmapur Open Cast Karmachari Sahakari Pat Sanstha, which is engaged in disbursement of loan/s to its eligible members. It is further stated in the First Information Report that when the Model code of conduct for the elections of Co-operative Societies was in force, the applicants convened a meeting of the Management Committee on 03.11.2022 at 12:00 noon in the office of the Society and waived interest on loan of one of the members namely Ashok Rajeshwaar Janve bearing membership No.345. Consequently, the First Information Report as stated supra was registered culminating into filing of the final report and summary criminal case mentioned above.

6. We have heard Mr. Prakash D. Meghe, learned counsel appearing on behalf of the applicants and Ms. Sneha S. Dhote, learned Additional Public Prosecutor for the non-applicants/State.

7. It is the case of the applicants that they being employees of the Western Coal Fields are office bearers of the

Padmapur Open Cast Mines. Padmapur Open Cast Karmachari Pat Sanstha is a Society registered under the provisions of the Maharashtra Co-operative Societies Act. It is further submitted that on 01.04.2021, one Ashok Janve applied for a long term loan of Rs.10 lakhs and said loan was sanctioned and the amount was disbursed to him. However, subsequently, the said member was dismissed from Western Coal Fields and as such he failed to repay the interest and loan installment of the said amount. Due to such default, he submitted an application to the Society requesting to grant relaxation from payment of interest and in that case he was ready and willing to pay the amount in lump sum. It is further submitted that in view of the said application of Ashok, a meeting was held and resolution was passed thereby relaxing the interest amounting to Rs.1,29,095/- and the Society agreed to close his loan account.

8. Thereafter, on 14.01.2023, elections to the Managing Committee of the said Co-operative Society were held wherein, the applicants herein were elected as a members of the Executive Committee. However, the non-applicants as stated supra have

initiated enquiry as a result of which, the First Information Report in question is lodged.

9. Mr. Meghe, learned counsel for the applicants submits that no offence much less as alleged in the First Information Report is made out even on *prima facie* by reading of the averments made therein. He further submits that there is no breach of any Government circular as can be seen from the First Information Report. He also submits that even if the allegations are taken on their face value, they do not make out any offence. He invites our attention to the fact that the amount of interest which was waived was already deposited by the said member on 23.02.2023 and the receipt thereof is placed on record.

10. Per contra, Ms. Sneha S. Dhote, learned Additional Public Prosecutor, while opposing the contentions advanced by the learned counsel for the applicants states that the applicants have committed breach of the Model code of conduct. However, while confronted, she could not point out any particular clause of which the breach is complained of. She, however, submits that the act of waiving of loan was during the period when the Model code of

conduct was in operation and the said act amounted to influence the voters.

11. After appreciating the entire material placed on record, we are not impressed by the contentions raised by the learned Additional Public Prosecutor as we fail to understand how a simple relaxation/waiver of payment of amount of interest would amount to breach of Model code of conduct. Section 146 of the Act of 1960 which is invoked in the present matter speaks about various offences while Section 147 speaks about punishment for the said offences. As can be seen from the minute perusal of Section 146 the Act of 1960, all the applicants do not fall in any of the categories as mentioned in the said Section. It is thus clear that no offence is made out under the said Section.

12. As far as the offence under Section 188 of the Indian Penal Code is concerned, Section 195 of the Code of Criminal Procedure specifically bars the code from taking cognizance of the offence punishable under Sections 172 and 188 of the Indian Penal Code except on a complaint in writing of a public servant concerned or of some other public servant to whom he is

administratively sub-ordinate. In the present matter, it is nobody's case that the offence under Section 188 has been made out looking at the facts of the matter. Since, we have already held that there is no breach of any clause of Model code of conduct. Furthermore, Circular dated 15.06.2020 issued by the non-applicant No.3 makes it amply clear that day-to-day working of the Co-operative Society should not be hampered and the same may be continued. Waiving or relaxing the amount of interest is a part of day-to-day business of the Society more particularly when the said decision is taken by the Managing Committee by passing a resolution in that regard. In that view of the matter, we are inclined to pass the following order :

ORDER

- i) The criminal application is **allowed**.
- ii) First Information Report No.0311 of 2023 dated 28.12.2023 registered with Durgapur Police Station, Tah. and District Chandrapur for the offences punishable under Sections 188 of the Indian Penal Code and under Sections 146, 147 and 148 of the Maharashtra Co-operative Societies Act, 1960 is

quashed and set aside. Consequently, charge-sheet No.08 of 2023 dated 12.02.2024 as also Summary Criminal Case No.1119 of 2024 are also quashed and set aside.

iii) No order as to costs.

(NANDESH S. DESHPANDE, J.) (URMILA JOSHI-PHALKE, J.)

TAMBE.