



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.895 OF 2024

Dilip Baburao Nimbalkar & ors.

... PETITIONERS

VERSUS

The State of Maharashtra & anr.

... RESPONDENTS

.....
Mr. V.D. Hon, Senior Advocate a/w
Shri S.S. Kote, Advocate i/b
Shri A.V. Hon, Advocate for petitioners
Mr. A.R. Kale, A.P.P. for respondent No.1 – State
.....

CORAM : SACHIN S. DESHMUKH, J.

Date of reserving order : 6th February, 2026

Date of pronouncing order : 24th February, 2026

ORDER :

1. The petitioners have presented this petition under Article 226 of the Constitution of India vis-a-vis Section 482 of the Code of Criminal Procedure, seeking quashment of the F.I.R. No.I-65/2018, registered with Kotwali Police Station, District Ahmednagar and the consequential charge sheet No.201 of 2018 filed in Special Case No.337/2018 in the Court of Additional Sessions Judge, Ahmednagar for the offences punishable under

Sections 406, 408, 409, 420, 465, 467, 468, 471, 477(A), 120 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Institutions) Act, 1999.

2. The petitioners are the Managing Committee members of the Society– Martand Nagari Sahakari Patpedhi Limited, Ahmednagar, registered under the provisions of the Maharashtra Co-operative Societies Act, 1960. In the process of administration of the Society and its functioning, several decisions were rendered by the present petitioners. As a part of the same, the commission to the Pigmy agents, which was conferred to the extent of 3%. However, realising the same to be in contravention of the Government prescribed rate prescribed of 2.5%, the same was reduced to so as to alienate the directives of the Government in that regard.

3. While raising protest in relation to the reduction, the Pigmy agents wanted to ensure the commission is restored to 3%. In the process, the hindrances were created in the day-to-day functions of the Society and several complaints in that regard were presented before the authorities.

4. While acting upon such complaint, the District Deputy

Registrar directed the Government Auditor i.e. respondent No.2 to undertake the audit of the Society for the financial years commencing from 1st April 2010 concluding the same till financial year 31st March 2015. Pursuant to the same, the audit was carried out, wherein the Society was classified as “D” Class and consequently, certificate to that effect was also issued with further directions to the managing committee members to carry out necessary rectification pursuant to the audit objections within a period of three months and submit the rectification report.

5. Thus, the petitioners were in the process to comply with the aforesaid directions of the auditor. However, in the interregnum, without waiting for the period of three months to expire, the respondent No.2 presented the report which came to be registered as F.I.R. No.I-65/2018 under Sections 406, 408, 409, 420, 465, 467, 468, 471, 477(A), 120 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Institutions) Act, 1999.

6. The order of the auditor was subject matter of challenge in revision under Section 152 of the Act at the instance of the present petitioners before the District Deputy Registrar, which came to be allowed, setting aside the order under Section 81(5)(6) and

also quashed the order of appointing the enquiry officer under Section 88 of the Act.

7. In the aforesaid backdrop, the learned Senior Counsel Mr. Hon for the petitioner submitted that, the unprecedented hurry displayed by the authorities while lodging the report, initiating criminal prosecution is nothing but sheer abuse of process of law. Nevertheless, in the wake of the order of the Divisional Joint Registrar in an appeal under Section 152, by which the order of the respondent No.2 under Section 81(5)(6) vis-a-vis Section 88 of the Act has been quashed and set aside. As such, further continuance of the proceedings pursuant to the registration of crime in question is unsustainable and the same is liable to be quashed and set aside. In support of contentions, heavy reliance is placed on the verdict of the Apex Court in case of **HDFC Bank Ltd. Vs. The State of Bihar & ors. (AIR 2024 SC 5455)**.

8. Per contra, the learned A.P.P. has countered the submissions of the petitioners, submitting that the auditor has noted the glaring illegalities committed by the present petitioners while officiating as members of the managing committee, constitutes an offence same is of serious nature. As such, the petition is liable to be dismissed.

9. Upon hearing the learned counsel for the petitioners and the learned A.P.P., and perusal of the material placed on record, there is no debate that registration of the F.I.R. in question is premised on the report of the auditor only. Although the report refers to the rectification of objection in the audit within a period of three months and submit the rectification report and same was precisely completed on 25/1/2018. As such, the time specified was available for the petitioners herein to submit the rectification report. However, without allowing the petitioners herein to undertake the said exercise within the stipulated time-frame, with an unprecedented urgency, the F.I.R. in question is lodged.

10. Apart from the aforestated aspect, admittedly when the appeal presented by the petitioners against the audit report under Section 154 has been allowed and the said report itself is quashed and set aside, same has attained finality for want of further challenge.

11. The reliance placed by the learned Senior Counsel for the petitioners on the judgment in the case of HDFC Bank (supra) lends support to the contention of the petitioners that when there is no material in view of the order of the appellate authority quashing

the report to sustain the F.I.R.

12. At this juncture, it would be appropriate to refer the observations of the Hon'ble Apex Court in case of State of Haryana & ors. Vs. Chi. Bhajan Lal & ors. (1992 Supp. (1) SCC 335), wherein the Apex Court has laid down broader principles while exercising the extraordinary powers under Article 226 of the Constitution of India or the inherent powers under Section 482 of the Code of Criminal Procedure, carving out the following categories of cases by way of an illustration such powers can be used so as to prevent the abuse of process of any Court or otherwise to secure the ends of justice.

13. In paragraph No.102 of the judgment in case of Bhajan Lal (supra) the Hon'ble Apex Court observed :

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad

kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the

concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

14. In view of the aforesaid principles laid down by the Hon'ble Apex Court in case of Bhajan Lal (supra), I am of the considered opinion that, continuation of the proceedings pursuant to the report submitted by the respondent No.2 against the present petitioners would amount to sheer abuse of process of law, which would cause undue hardship to the petitioners. As such, same is liable to be quashed.

15. In the result, the Criminal Writ Petition is allowed in terms of prayer clause (B).

(SACHIN S. DESHMUKH, J.)

fmp/-