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

## CRIMINAL APPLICATION NO. 23 OF 2025

Sandip Premsing Jamadar (Rajput),
Age: 44 years, Occu. Business,
R/o. Plot No.7, Siddhi Vinayak Colony,
Nimzari Naka, Shirpur, Taluka : Shirpur,
District : Dhule – 425 405. ..Applicant

VERSUS

1) The State of Maharashtra
Through Police Inspector,
Shirpur City Police Station, Shirpur
Taluka : Shirpur, District : Dhule.

2) Ajitsing Navnitsing Rajput,
Age: 63 years, Occu: Agriculturist,
R/o. Rath Galli, Rath Wada, Shirpur,
Taluka : Shirpur, District : Dhule. ..Respondents

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Mr. S.V. Suryawanshi, Advocate for Applicant.
Mr. S.N. Kendre, APP for Respondent/State.
Mr. S.B. Yawalkar h/f Mr. U.S. Patil, Advocate for Respondent No.2.

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**CORAM : S. G. CHAPALGAONKAR, J.**

**DATED : APRIL 23, 2026**

**FINAL ORDER :-**

1. The applicant seeks quashment of FIR No.402 of 2024 dated 15.07.2024 registered with Shirpur Police Station, District Dhule for offences punishable under Section 316(2), 318(4), 336(2), 336(3), 338, 340(2), 351(2), 351(3), 352 of Bharatiya Nyaya Sanhita, 2023 and Section 39 of Maharashtra Money Lending (Regulation) Act, 2014.

2. The investigation was set in motion on the basis of information given by respondent no.2. In nutshell, allegations are that in the year 2017, informant suffered illness of Parkinson. He was in dire need of Rs. 18 to 20 lakh for medical treatment. The applicant deals in money lending. He agreed to pay amount subject to payment of interest @ 5% per month. He shown copy of money lending license to him. In March 2017, informant received loan amount of Rs.30 lakh from applicant at agreed rate of interest. On 18.07.2017, informant's wife and applicant entered into memorandum of understanding wherein it was agreed that amount of Rs.30 lakh borrowed by informant would be repaid with interest @ 5% till 2018. However, in case of failure, informant’s agricultural land out of Gat No.35/2 would be transferred in the name of applicant. It is further alleged that till date of lodging FIR, amount of Rs.1,30,70,200/- has been repaid to applicant/accused. The entries in this regard are recorded by him in his diary. Further, applicant got executed sale deeds dated 06.10.2018 and 19.12.2019 from informant towards security of loan.

3. It is accordingly alleged that although loan amount has been returned to applicant, he has illegally retained land transferred under nominal sale deeds executed towards security of loan. It is further alleged that applicant/accused is illegally dealing in money lending business. He extracted amount of Rs.1,30,70,200/- and also illegally acquired title of agricultural land from informant. Aforesaid

information culminated into registration of FIR against applicant/accused for aforesaid offences.

4. The investigation progressed. During course of investigation, statements of witnesses have been recorded. The copy of memorandum of understanding dated 30.07.2017 between Sarla Rajput (wife of informant) and applicant is said to have been seized. Similarly, extract of diaries depicting receipt of amount by applicant from different persons is seized. A register of stamp vendor Mr. Pravin Chavan for period from 11.04.2017 and 27.03.2018 is also seized. The statement of witnesses namely Suresh Desarda, Ashok Desarda, Fakira Nago Patil are recorded depicting money lending business of applicant. After filing of charge sheet. R.C.C. No.128 of 2025 is registered and pending trial before Judicial Magistrate First Class at Shirpur against applicant.

5. Mr. Suryawanshi, learned advocate for applicant submit that applicant has been falsely implicated in aforesaid crime. The applicant has purchased agricultural land under registered sale deed from informant’s wife Smt. Sarla Rajput. The consideration amount is made through bank transaction. Informant was in dire need of money for repayment of loan of HDFC Bank, Dhule and for purpose of satisfying his needs, sale deeds were executed. Mr. Suryawanshi would invite attention of this Court to account of statement depicting payment made to HDFC Bank. He submits that respondent no.2 in

collusion with his wife prepared false document purportedly dated 18.07.2017 using back dated non-judicial stamp and same is projected as mutual understanding memo. Manipulated signature of applicant has been made on so-called memorandum of understanding. Mr. Suryawanshi submits that respondent no.2 has initiated proceeding against applicant before Registrar Money Lending under provisions of Maharashtra Money Lending (Regulation) Act, 2014 and false FIR has been filed to generate evidence against applicant. In support of his contention, Mr. Suryawanshi relied upon following judgments :

1. ***Ushabai Babasaheb Nannaware and Another Vs. The State of Maharashtra and Another*** reported in ***2025(1) ABR (Cri.) 481***;
2. ***Kishan Singh (Dead) Through Lrs Vs. Gurpal Singh and Others*** reported in ***(2010) 8 SCC 775***.
3. ***Ramesh Chandra Gupta Vs. State of Uttar Pradesh and Others*** reported in ***(2022) 18 SCC 706***.
4. ***Sarabjit Kaur Vs. State of Punjab and Another*** reported in ***(2023) 5 SCC 360***.
5. ***Dilawar Singh Vs. State of Delhi*** reported in ***2007 Cr.L.J. 4709***.
6. ***Basavraj Vishwanathappa Vs. The State of Maharashtra in Criminal Application No.3901 of 2024 decided on 24.04.2025***.
7. ***Hemalatha (D) by Lrs Vs. Tukaram (D) by Lrs*** reported in ***2026 SCC Online SC 106***.

6. Per Contra, Mr. Yawalkar, learned advocate holding for Mr. Ujjwal Patil submits that contents of FIR, evidence collected during course of investigation is sufficient to make out triable case against applicant for charged offences. It is therefore necessary to relegate applicant for trial. There are no good grounds to invoke extraordinary power under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023. He would submit that complaint filed by informant under Section 18 of Maharashtra Money Lending (Regulation) Act, 2014 is pending before Registrar Money Lending/District Deputy Registrar at Dhule. The inquiry report of Assistant Registrar in Inquiry No.01 of 2023 clearly opines that applicant indulged in unauthorized money lending business.

7. Having considered submissions advanced by learned advocates appearing for respective parties, the mute question that requires consideration in this application is whether averments in FIR coupled with material in charge sheet, discloses commission of charged offences. Careful reading of FIR discloses that informant was facing financial crunch. He approached applicant for advancement of money. In March 2017, informant received an amount of Rs.30 lakh. The wife of informant entered into a memorandum of understanding with applicant and promised refund of Rs.30 lakh or transfer of agricultural land. It was reduced into writing. Later on, informant’s wife executed registered sale deeds of land situated in Gat No.35/2 at

Shirpur (Khurd). According to informant, he returned an amount of Rs. 1,37,70,200/- against loan borrowed from applicant, however, land is retained by applicant on the basis of registered sale deeds. The FIR stipulates details of repayments made during period from 09.07.2018 to 27.12.2019 and thereafter 10.12.2019 to 29.10.2020.

8. *Prima facie*, it can be observed that following registered sale deeds are executed in favour of applicant :

| Sale Deed No. | Date | Name Of Parties | Amount | Part Of Land |
|---|---|---|---|---|
| 3663/ 2018 | 06/10/2018 | Sandip Premsing Rajput (Buyer)<br>Sarlabai Ajitsingh Rajput (Seller) | Rs. 60,00,000/- | **1 H 21 R** out of 3 H 11 R situated in Survey no. 35/2 |
| 3857/ 2018 | 23/10/2018 | Sandip Premsing Rajput (Buyer)<br>Sarlabai Ajitsingh Rajput (Seller) | Rs. 22,00,000/- | **0 H 41 R** out of 3 H 11 R situated in Survey no. 35/2 |
| 4112/ 2019 | 17/12/2019 | Sandip Premsing Rajput (Buyer)<br>Sarlabai Ajitsingh Rajput (Seller) | Rs. 8,53,000/- | **0 H 27 R** out of 3 H 11 R situated in Survey no. 35/2 |

9. Since aforesaid sale deeds are registered instruments executed in accordance with law, it has statutory presumption. The contents of sale deed depicts out and out transaction for consideration. The informant is coming with a case that transactions in question were towards security of loan and his wife has approached authorities under Maharashtra Money Lending (Regulations) Act, 2014 for cancellation of sale deeds. Evidently, there is a dispute of civil nature which can be adjudicated by authorities under Money Lending Act or by Competent Civil Court. The FIR further refers to

memorandum of understanding between applicant and wife of respondent no.2. However, said document is seriously disputed by applicant. Even otherwise contents thereof at the most suggest that informant's wife had agreed to transfer land in the name of applicant on default in repayment of amount advanced by applicant. Of course, aforesaid document will have to be proved in accordance with the law before competent Court.

10. Perusal of charge sheet shows that some diaries depicting entries of advancement of amount made by applicant to different persons and register of stamp vendor has been seized during course of investigation. This evidence may establish that applicant had transactions with many persons or stamp dated 13.07.2017 was purchased by him from Mr. Pravin Chavan. The said stamp is purported to be used for memorandum of understanding between applicant and informant wife. The charge sheet contains statements of Mr. Suresh Desarda, Mr. Ashok Desarda and Mr. Fakira Nago Patil. They state that in 2008 and 2018 respectively, they made sale transaction in favour of applicant towards security of loan advanced to them. In light of aforesaid evidence, respondent no.2 or prosecution wants to establish charge against applicant for offences punishable under Sections 316(2), 318(4), 336(2), 336(3), 338, 340(2), 351(2), 351(3) and 352 of Bharatiya Nyaya Sanhita, 2023

and Section 39 of Maharashtra Money Lending (Regulation) Act, 2014.

11. Section 316(2) prescribes punishment for criminal breach of trust which requires entrustment of property and dishonest misappropriation or its conversion for own use. In present case, property is transferred to applicant under registered sale deed which raises presumption of valid transfer of title. It stipulates necessary averments regarding valid transfer. Section 318(4) provides for dishonest inducements of a person to deliver any property. Section 336(3) provides punishment for forgery for purpose of cheating. Section 338 provides punishment for forgery of valuable security. Section 340(2) provides punishment for use of forged documents as genuine. Section 351 deals with criminal intimidation and Section 352 deals with intentional insult with intent to provoke breach of peace. This Court finds that from averments in FIR or charge sheet, ingredients of none of aforesaid offences can be carved out.

12. Section 39 of Maharashtra Money Lending (Regulation) Act, 2014 prescribes punishment/penalty for money lending business without valid licence. Admittedly, dispute whether transaction in question was money lending is pending before competent Court under Act of 2014. Further, it is well settled that to attract offence under Section 39, it is necessary to bring on record multiple money lending transactions done by accused. Isolated or stray transaction would not

be enough to show that accused indulged in business of money lending. In case of ***Mandubai Vithoba Pavar vs. State of Maharashtra (2016) 1 Bom. C.R. (Cri) 794***, this court observed in para.11 as under:-

> *"11. The above discussion makes it clear that for it to be a business there has to be a continuous and systematic activity by application of labour or skill with a view of earning income when it could be called "business". In order to do business of money lending, it would be necessary for the State to point out multiple activities of money lending done by the petitioner. Merely referring to one isolated transaction claimed to be a loan transaction or money lending would not be enough to show that the petitioner was involved in "business of money lending" without licence. The FIR in the present matter read as a whole does not spell out that the petitioner was doing "business of money lending". This being so, on the basis of such FIR the prosecution cannot be maintained."*

Similarly, the Division Bench of this Court in the case of ***Balasaheb Ramrao Bade vs. State of Maharashtra and others reported in (2019)5 Mh.L.J. (Cri.) 132***, and in case of ***Anup Niranjan Dodiya and another vs. State of Maharashtra and others, reported in 2020 All M.R. (Cri). 2497***, dealt with the definition of "money lending" and held that to make out offence under Section 39 of the Money Lending Act, inference of money lending business can not be drawn on the basis of isolated transaction so also prosecution of accused can not be permitted on that basis.

13. Although FIR stipulates about money lending transactions between applicant and respondent no.2, it is difficult to infer that applicant indulged in "business of money lending".

Statements of three witnesses referred in charge sheet suggest that sale transaction of 2008 and 2018 made in favour of applicant were money lending transaction. However, none of the witnesses lodged complaint regarding money lending business by applicant before competent authority for years together. On the basis of such a belated statement, inference of money lending business cannot be drawn.

14. In this backdrop, reference can be given to the guidelines laid by Hon'ble Supreme Court in the case of ***State of Haryana and Others Vs. Ch. Bhajan Lal and Others***, reported in ***AIR 1992 SC 604***, as stipulated in para 102 particularly Clause Nos.1, 3 and 7, which reads as under :

> *"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles 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.*
>
> *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.*
>
> *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.”*

Applying aforesaid principles of law to facts of present case, this Court finds that averments made in FIR or evidence collected in support of same is bereft to make out triable case against applicant. The respondent no.2 is trying to use the machinery of criminal Court to settle civil dispute in relation to land.

15. It is trite, use of machinery under criminal law cannot be allowed to be exerted for settlement of civil dispute. In present case, registered sale deeds have been executed in the year 2018, whereas FIR has been lodged in the year 2024. If respondent no. 2 had objection regarding nature of transaction under sale deed or he wants it to be declared as invalid, his remedy was before Competent Court of Civil Jurisdiction or before the authorities under Maharashtra Money Lending (Regulation) Act, 2014, which he has already exhausted.

16. In given set of facts, this Court finds that nature of allegations in FIR would constitute purely civil wrong furnishing cause of action to invoke remedy in civil law. So, in absence of allegations in complaint disclosing criminal offence, use of criminal proceedings as substitute to civil remedy cannot be allowed. Hon’ble Supreme Court has reiterated that dispute concerning repayment of loan money and alleged coercion in execution of document is of

purely civil nature. The essential ingredients of cheating or forgery cannot be made out of such transaction.

17. In result, case is made out to exercise inherent powers and grant prayers in application. Hence, application is allowed in terms of prayer clause (B) and (F).

**(S.G. CHAPALGAONKAR, J.)**

*Mujaheed//*