



ORDER BELOW EXH.75 IN RCC No. 06/2008
(CNR NO.: MHKO110013272008)
(Passed on this 01st day of October, 2019)

1. Present application is filed by accused No. 10 Pradeep Shantilal Rathod and 14 Bharati Kumar Jain (henceforth referred to as applicants) under Sec. 245 of Cr.P.C.

2. It is contention of applicants that the complainant has filed present complaint against them as they were the directors of the society. It is further contended that they have not committed any offence. On perusal of entire complaint it seems the allegations are made only against accused No. 1 and 15. As far as the applicants are concerned there is only omnibus statement made against them and they are added as accused only because they are directors. The applicants have not taken any part in day today affairs of society. Therefore, the present applicants are not liable for criminal action against them. Hence, it is prayed that the applicants be discharged from the present case.

3. Complainant filed say to present application at (Exh. 137). It is the say of complainant that applicants being directors they are liable for all transactions of society. They

have used money by showing false loan transactions. They were having all knowledge about illegal transactions. During trial all the facts will come on record. Therefore, it is prayed the present application be rejected.

4. Perused application and say. Heard both side. Both the sides argued according to their application and say. According to complainant there is an prima-facie evidence present against both the applicants.

5. The present case is instituted otherwise than on police report. The present application is filed under Sec. 245 of Cr.P.C. Under Section 245(1) of Cr.P.C., If, upon taking all the evidence referred to in Sec. 244, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out each, if unrebutted would warrant is conviction, the magistrate shall discharge him. Under Sec. 245(2) nothing in the section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge would be groundless.

6. In present complaint still evidence is to be lead but as stated under sub Sec. (2) of Sec. 245 nothing shall deemed to prevent a Magistrate from discharging accused at

any previous stage of a case if, for reasons to be recorded by such magistrate, he considers charge to be groundless. Now let us see the contents of complaint and documents filed by complainant. It seems in the complaint the applicants are shown as directors of the society. Allegations in the complaint seems to be basically only against accused No. 1 and 15. In the complaint it is mentioned that false loan case was sanctioned in name of complainant showing him as a proprietor of Hotel Vanrai. Further complainant came to know accused No. 1 and 15 by hatching conspiracy between 09/11/1998 till 07/12/1998 has withdrawn loan amount of ₹1,50,000/- from above sanction loan. But against present applicants the only statement is that they are directors of the society. I have also gone through documents filed along with (Exh. 3) by the complainant. Even after going through the said documents it is also not clear as to what is the prima-facie evidence against the applicants brought forward by filing the present documents. So also Hon'ble Bombay High Court in Writ Petition No. 2946/2010 had quashed issue process order passed by my learned predecessor in present proceedings in respect of other directors i.e. original accused No. 2, 4, 5, 6, 7, 8, 9, 11 and 13. As far as the said accused are concerned their role is similar to that of present applicants. Now if we take into consideration all above fact it seems in view of above discussion and reasons and upon going through all the

materials the charge against the applicants seems to be groundless. Only because they were director they can not be made to face trial without prima-facie evidence and hence they deserves to be discharged from present case. Hence, the order.

O R D E R

1. Accused No. 10 Pradeep Shantilal Rathod and Accused No. 14 Bharati Kumar Jain are discharged for offences punishable under section 408, 409, 418, 420, 462, 467 and 468 read with 34 of I.P.C. vide section 245(2) of the Code of Criminal Procedure.

2. Their bail bond stands cancelled.

**Peth-Vadgaon.
Dt. 01/10/2019.**

Sd/-
(P. R. Rane)
**Judicial Magistrate First Class,
Peth-Vadgaon.**

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/Order are same, word to word, as per the original Judgment/Order.

Name of the Stenographer	Shri. R. P. Moraskar
Name of Court	Shri. P. R. Rane, Judicial Magistrate First Class, Peth-Vadgaon.
Date of Dictation	01/10/2019
Judgment Signed by the P.O. on	01/10/2019
Judgment uploaded on	01/10/2019