

	ORDER BELOW EXHIBIT NO. 58 IN RCC No.171/2022 CNR No. MHKO110017562022
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The present application is filed by accused No.6 to discharge him as per Section 245 of the Code of Criminal Procedure of the offences punishable under Sections 406, 408, 420, 467, 468, 471, 474, 477(a) read with Section 34 of The Indian Penal Code, 1860.

2. The learned APP filed her say at Exh.59. Learned advocate for the original complainant has filed say at Exh.60.

3. Heard learned advocate for the accused and APP for the prosecution.

4. It is submitted by the learned advocate for the accused that, the charge sheet filed by police does not reveal a prima facie case against the applicant. The allegations are baseless and essential ingredients of said sections are not fulfilled. The allegation in FIR and charge-sheet are false. The present dispute between the parties is purely of civil nature. The investigation officer has not investigated or pursued the case of Cooperative case No.512/2011 filled by the Secretary of Hatkanangale Taluka Prathamik shikshak Sevkanchi Pat Sanstha Marya., Rui for recovery of subjected money in this crime. Which was decreed in favour of Hatkanangale Taluka Prathamik Shikshak Sevkanchi Sahakari Pat Sanstha Marya. Hatkanangale Society. In which case the co-operative court also held that the application is not joint and severally liable to repay the amount of deposits.

5. Furthermore, before filling of the present complaint the informant was personally appointed as liquidator of the Laxmi Nagri Pat Sanstha Rui from the date of 01/08/2017. So the informant was very well-

known of the decree of the co-operative case No.512/2011 and Crime register in respect of 189/2018 in respect of Laxmi Nagri Society. The allegation which is alleged in the present FIR against the application are already included in CR No.189/2018 for which the applicant is already facing the trial before Honourable District and Sessions Court Ichalkaranji in special case No.33/2024. So the applicant is falsely roped twice for the same offence in present case. Therefore, he is deserve to be discharged from alleged offences. Hence, this application. The learned advocate for accused relied on following citations :

a) Hridaya Ranjan PD. Verma and Ors Vs. State of Bihar and another (2000) ALL MR (Cri) 1490

The facts of case in hand above cited case law are different. Hence, not helpful to the accused.

b) Chandrakant Manohar Burade Vs. C.B.I. (2016) ALL MR (Cri) 922

In which Honourable Bombay High Court observed that, the matter ended at the level of department itself. However, the FIR, that was already lodged and investigation that has already begun, continued and as result the chargesheet was filed before C.B.I. Court. In case in hand, the facts are different hence, the cited case law is not helpful to the accused.

c) Imteyaz Ahmad Vs. State of Bihar 2024 CRI. L.J. 119

In which Honourable Patna High Court observed that, two FIRs were registered and allegations in both FIR were same. In the present case admittedly, two FIRs are registered however, the allegations in both FIRs are not prima facie same. Furthermore, as per the FIRs chargesheets are on record in different Courts of jurisdiction. Hence, the present cited case law is also not helpful to the accused.

d) T.T. Antony Vs. State of Kerala and Ors. AIR 2001 Supreme Court 2637

In which Honourable Supreme Court observed that, the registration of

second FIR under Section 154 of the Code of Criminal Procedure on the basis of letter of Director General of Police as crime No.268/1997 of Kuthuparamba Police Station is not valid and consequently the investigation made pursuant to it is of no legal consequence, they are accordingly quashed. The situation in case in hand is different from cited case law. Hence, the cited case law is not helpful to the accused.

e) Amitabh bhai Anilchandra Shah Vs. C.B.I. and another AIR 2013 Supreme Court 3794

In which Honourable Supreme Court observed that, the filing of second FIR and fresh charge sheet is violative of fundamental rights under Article 14, 20 and 21 of the Constitution since the same relate to alleged offence in respect of which FIR had already been filed and Court has taken cognizance. In case in hand admittedly two FIRs are registered and in both cases charge sheet has been filed and Courts have taken cognizance in both cases. However, prima facie the allegations in both FIRs are not same in connection with the accused. Hence, the cited case law is not helpful to the accused in present situation.

5. The learned APP for prosecution has argued that FIR itself states about involvement of accused No.5. The reason mentioned in the application are not satisfactory. I.O. has furnished statement of witness and other sufficient documentary evidence along with charge sheet. Therefore, the present case needs to be decided on merit. Hence, this application is liable to be rejected.

6. I have perused FIR, charge sheet, statement of witnesses and annexed documents. I have also gone through the provision of Section 239 of the Code of Criminal Procedure.

Section 239 of The Code of Criminal Procedure read as under:

“When accused shall be discharged. If, upon considering the police

report and the documents sent with it under Section 173 and making such examination if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.”

7. On perusal of FIR it appears that, accused No.5 along with other accused is alleged to have committed the offences punishable under Sections 406, 408, 420, 467, 468, 471, 474, 477(a) read with Section 34 of The Indian Penal Code, 1860. The process was issued against all accused for the offence punishable under Section 406, 408, 420, 467, 468, 471, 474, 477(a) read with Section 34 of The Indian Penal Code, 1860. On perusal of contents of FIR, prima facie the involvement of accused No.5 appears.

8. Admittedly, though there are two distinct FIRs lodged against the accused, prima facie the contents of both FIRs are not one and same. Moreover, the present accused involved in both CRs along with other different accused persons. Furthermore, mere lodging two FIRs do not amount to double jeopardy. The contents of present FIR does not seem groundless. Considering the police report and annexed document, I do not find sufficient reason to discharge the accused. Hence, the application is liable to be rejected. In the result, I pass following order.

ORDER

1. Application (Exhibit No. 58) is rejected.
2. No order as to costs.

Place : Peth vadgaon.
Dated : 05/02/2026

(J. N. Bhasme)
Judicial Magistrate First Class,
Peth vadgaon