

MHNG140006032019



**Misc.Criminal Application No.123/2019  
Shivram/Dilip Mankar and others**

**Final Order below Exh.No.1**

The applicant has moved this application under section 156(3) of Cr.P.C. for directing the Police Station, Parseoni to register offence against accused/non-applicants under sections 420, 409, 468, r/w 34 of the Indian Penal Code.

2. The facts of the application, in short, are as under:-

That the applicant is an illiterate and is only able to sign. He reside with his family at village Khedi, Tahsil Parseoni, District-Nagpur and has his agricultural field being survey no.196/3 admeasuring 0.96 HR there. The applicant was in need of Rs.25,000/- for sowing operations in his aforesaid field, but he could not get help from his relatives. Coincidentally, non-applicant no.2 met with the applicant and offered him money on interest, to which the applicant shown his willingness. The non-applicant no.2 asked the applicant that the loan amount will be deposited in his bank account. As the applicant was not having bank account, the non-applicant no.2 facilitated the applicant to open his bank account alongwith cheque book with the Corporation Bank, Ramtek. The non-applicant no.2 obtained the signatures of applicant on the blank cheque book and kept it with him.

3. On 25.06.2019 the non-applicant no.2 came to the applicant and offered him to pay loan of Rs.25,000/- on the condition that he has

to accompany him to the Tahsil office, Parseoni to execute writing on the stamp paper and also asked him to take his Adhar card with him. The non-applicant no.2 first offered liquor to the applicant and thereafter took him to the office of Registrar at Parseoni. The non-applicant no.2 said to the applicant that non-applicant no.1 is their officer and he is disbursing loan to needy farmers. The non-applicant no.1 asked the applicant to offer loan on the condition that he has to sign on the documents as per the wish of non-applicant no.1. Accordingly, the non-applicant no.1 prepared false documents and obtained the signature of applicant on those documents in presence of all the other non-applicants, on the pretext that they are genuine. So also, on 26.06.2019 the non-applicant no.2 took the applicant to Kanhan and obtained his signature on stamp paper. When the applicant asked the non-applicant no.2 about the loan amount, he told him that the loan amount will be deposited to his account after one month.

4. On 23.09.2019 when the applicant alongwith his son Raju Shivram Madankar had been to the Corporation bank, Ramtek to ascertain whether the loan amount is deposited to his account or not, they came to know that rupees two lakhs are lying in the account. Upon enquiry, they came to know that the non-applicant no.2 alongwith other non-applicants has misutilize the cheques, signed by and given in the custody of non-applicant no.2 by the applicant. They further came to know that all the non-applicants have cheated the applicant by getting executed sale deed of his aforesaid field in favour of the non-applicant no.1. The applicant reported this incident first to the Police Station, Parseoni and thereafter to the Police Superintendent, but no action has been taken. Hence, he has been constrained to file instant application

before this Court.

5. The allegations on the face of record goes to show the transaction in between the applicant and non-applicants was purely commercial in nature. Apart from it, the transaction between the applicant and non-applicant no.1 being commercial in nature, its copies are available in public domain. Perusal of entire complaint does not reveal as to what evidence needs to be collected by the police machinery. Looking towards the nature of matter, it cannot be said that the evidence required in the present matter is of such a nature that the applicant does not access to it and that it can be collected by the police machinery only. Thus there is nothing on record to suggest that investigation as prayed for by the applicant is absolutely necessary for an effective and efficient prosecution of accused. On the contrary, perusal of record and documents reveals that all necessary evidence is within the reach of applicant and nothing needs to be detected through police investigation.

6. The learned counsel for the applicant Adv.Shri.Sankalp Mshram has placed his reliance in the case of **Sakiri Vasu ..vs.. State of UP AIR 2008 Supreme Court 907, Srinivas Gundluri ..vs.. Ms.Sepco Electric Power Construction 2010 AIR SCW 5315, Panchabhai Popatbhai Butani ..vs.. State of Maharashtra 2010 Cr.L.J. 2723, Masuman ..vs.. State of UP 2007 ALJ(1) 221, Babul ..vs.. State of Rajasthan 2009 Cr.J.J. 4346, Santosh Kumari ...vs.. State of UP 2007 Cr.L.J. 3869, State of Maharashtra ..vs.. Shashikant Eknath Shinde 2013 All MR (Cri.) 3060 and Yogiraj Surve ..vs.. State of Maharashtra 2013 All MR (Cri.) 2059** and contended that in the cited cases it has been

held and reiterated that the Magistrate may allow the application under section 156(3) Cr.P.C. if he finds that a cognizable offence is made out. However, in the instant case, in my opinion prima facie no cognizable offence being made out, I do not find it a fit case to direct the police to investigate into the matter as per section 156(3) of Cr.P.C.

Hence, in view of the facts and circumstances of application, discussion noted above and in view of the guidelines laid down in abovesaid case, I am not inclined to grant the relief under section 156(3) of Cr.P.C. to the applicant. I am of the opinion that the instant matter can be proceeded directly under section 202 of Cr.P.C. In the result proceed to pass the following order:-

### ORDER

1. The prayer of applicant under section 156(3) of Cr.P.C. is hereby rejected.
2. The applicant is at liberty to lead evidence under section 202 of Cr.P.C.
3. Matter be put up for verification.

Parseoni.  
Date-28.10.2020.

Sd/-  
(N.R.Bhalgat)  
JMFC, Parseoni, Dist.Nagpur.

Argument heard on	05.02.2020
Order passed on	28.10.2020
Transcription ready on	28.10.2020
Order checked and signed on	28.10.2020

**CERTIFICATE**

I affirm that the contents of this P.D.F. file of order are word to word, as per original order.

**Name of Stenographer**-Abhijit Yeshwant Kulkarni