

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.17 OF 2015

THE STATE OF MAHARASHTRA)...APPLICANT

V/s.

MEHBOOB HASAN MOMIN AND ORS.)...RESPONDENTS

Mr.Deepak Thakre, APP for the Applicant – State.

Ms.Nirmala S. Thorat – Respondent No.6 – appearing in person.

CORAM : ABHAY M. THIPSAY, J.

DATE : 27th MARCH 2015.

P.C. :

1 The respondents were prosecuted on the allegation that they had committed offences punishable under Sections 406 and 420 of Indian Penal Code (IPC) read with Section 34 thereof and Section 3 of the Maharashtra Protection of Interest of Depositors Act.

2 The learned Judge, after holding a trial, found the respondents not guilty and passed an order of acquittal. The State of Maharashtra is aggrieved by the said order of acquittal, and is, therefore, by the present application, seeking leave to appeal therefrom.

3 I have heard Mr. Deepak Thakre, the learned APP for the State, in support of the application. I have heard respondent no.6, who is present before the court in person, and who desired that she be heard in the matter.

4 I have gone through the impugned judgment.

5 The case arose out of the deposits made by the First Informant and a number of persons with the Shantidoot Finance Corporation, Gadhinglaj. A number of persons were lured to deposit money in the said company and then ultimately their money was not returned.

6 Admittedly, none of the respondents are or were the Directors of the said company. The persons, who allegedly played a major role in the alleged offences, have not been arrested as yet.

7 The learned trial Judge, after considering the evidence adduced before him, came to the conclusion that there was no evidence to show that any of the respondents had accepted the deposits paid to the said company and / or had given any receipts in respect thereof. The learned Judge observed that the Directors of the said company had collected huge amounts from the depositors, and promised to pay the amount with interest and had issued receipts to depositors. But the present respondents were not shown to be a party to the design to deceive the investors. The learned Judge noted that it was not the case of the prosecution that the respondents had secured any monetary benefits for themselves, from out of the alleged offences, or that a part of the misappropriated amounts had come to them, or any of them. Thus, it is on the ground that none of the respondents were the Directors, Managers, Agents or employees of the said

company, and that, there was no evidence that any of them had accepted any amounts from the depositors, and had issued receipt to them, or had shared the ill-gotten money with the Directors etc., that the respondents came to be acquitted. The learned Judge also observed that the original receipts issued to the depositors were not produced before the court during the trial.

8 The view of the matter, as taken by the learned Judge of trial court, cannot be said to be unreasonable. In any case, it was a '*possible view*.'

9 Under the circumstances, grant of leave would be futile.

10 Leave refused.

11 The application is rejected.

(ABHAY M. THIPSAY, J.)