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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.157 OF 2014

Ashit H. Jalui ..Applicant.
V/s.
The State of Maharashtra and Anr. ..Respondents.

Mr.Rajendra Rasthod with Mr.Kamran Shaikh for the applicant.
Mr.J.P.Yagnik, APP for respondent-State.

CORAM : RANJIT MORE AND V.L.ACHLIYA, JJ.

DATED : 11TH JANUARY, 2016

P.C. :-

1. Heard learned counsel for the applicant and learned APP for the State.

2. This application is filed for quashing and setting aside the order dated 3rd December, 2013 passed by the 47th Metropolitan Magistrate Court Esplanade, Mumbai and MCR No.7/2013 registered in pursuance of the said order by L.T. Marg police station, Mumbai. Respondent No.2 has filed a complaint bearing C.C. No.124/SW/2013. The complaint before the Magistrate under section 406, 420 and 506-II of the Indian Penal Code read with section 3 of the Maharashtra Protection of Depositors (In Financial Establishments) Act, 1999 (for short 'MPID Act') was ordered to be investigated under section 156(3) of the Criminal

Procedure Code.

3. It is the submission of learned counsel for the applicant that learned Magistrate could not have passed an order under section 156(3) of Criminal Procedure Code in the aforesaid complaint under the MPID Act. He further submits that even the offence under sections 406 and 420 of Indian Penal Code are also not made out.

4. We have gone through the contents of the complaint and the F.I.R. The allegations are made against the petitioner above that he along with others floated a Scheme and lured small investors to invest money and to double said money invested within a period of four years. Other schemes were also floated on the pretext that heavy interest would be paid to the investors. The investment was accepted by unregistered Finance company. The allegations are made in the complaint that the complainant invested Rs.6 lacs based upon the representation of the accused. The money as promised was not returned. The complaint further alleges that when he contacted the accused, he learnt that the deposits were accepted by the accused from a lerge number of persons and money was not returned. In the light of this allegations, we find that cognizable offence is made out. The order under section 156(3) of the Criminal Procedure Code is part of the

order. Be that as it may, even assuming that 156 order is for offence under sections 406 and 520 of the Indian penal Code, in that case also during investigation, police can always add the charge under MPID and the petitioner has challenged the order under section 156 of the Criminal Procedure Code and the learned Additional Sessions Judge, Mumbai and after due consideration of submission of the petitioner, dismissed the same. We do not find any error in the order.

5. In the above circumstances, we do not find any merit in the petition and the same is dismissed.

(V.L.ACHLIYA, J.) (**RANJIT MORE, J.)**