

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) NO. 955/2015

(Sameer Sudhir Joshi vs. State of Maharashtra)

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

.....
Mr. A. J. Mirza, Advocate for applicant
Mr S.S. Doifode, APP for respondent-State

CORAM: A.B.CHAUDHARI, J.

DATED : 18th January, 2016.

Heard.

In the case of Soma Suresh Kumar vs. Govt. of A.P. {2013 (10) SCC 677}, the Hon'ble Apex Court has laid down the law that the provisions of Maharashtra Protection of Interest of Depositors in Financial Establishments Act, (MPID Act) having been found to be valid, which are squarely applicable to the Societies registered in the category of Urban Cooperative Banks, Cooperative Banking Societies, Cooperative Credit Societies etc. It is, however, found that the offences of cheating, breach of trust of the investors/depositors were committed by such type of financial institutions from the year 2002 onwards and, in particular, the Samata Cooperative Bank, Dharamapeth, Nagpur; Nagpur Nagrik Mahila Sahakari Bank, Parmatma Ek Sevak Bank, Raisoni Cooperative society and some other credit societies and in those cases, charge sheets have also been filed. But then in the charge-sheets, offences under MPID

Act have not been applied by the police machinery and as such, the charge-sheets have been lying in the cold storage with the Courts of Chief Judicial Magistrates/ Additional Chief Judicial Magistrates, over a decade. The gullible investors were taken for a ride and had lost all their hard-earned money and deposits to these fraudsters, moving freely in the society, without any fear or law and the depositors/investors have to face doom and gloom. There is a failure on the part of the police machinery in not applying the provisions of MPID Act in all those cases which have been pending before the Courts of CJMs/Addl. CJMs despite the rigours of law to apply the provisions of MPID Act in all these cases, as pronounced by the Apex Court in the case of Soma Suresh Kumar (*supra*).

It is a matter of urgency now for the police machinery as well as the judiciary to apply the provisions of MPID Act in all these cases and commit those cases to the Special Courts under MPID Act, after following the required procedure.

In that view of the matter, I think the Director General of Police, Maharashtra State, Mumbai should examine this position and issue directions on urgent basis to the concerned police agencies to apply to the Courts for addition of offences under the MPID Act in all such type of cases and then for committal of the cases to the special Courts under the MPID Act. Simultaneously, I direct the CJMs/ Addl.CJMs at Nagpur and also where all such cases are pending to consider the application of penal provisions of MPID

Act in the light of the judgment of the Apex Court, cited supra and then commit those cases to the Special Courts. The compliance report from the CJMs/Addl. CJMs as well as Director General of Police MS Mumbai, is expected to be made to this Court within a period of two weeks from today. This Court is entitled to issue directions as stated above to the Courts of CJMs/Addl. CJMs under Article 227 of the Constitution, as held by the Apex Court in the case of All India Judges' Association vs. Union of India (1992) 1 SCC 119, more particularly paragraph No. 58 thereof, which reads thus:

“ 58. Before we part, we must indicate all the emphasis at our command that the system has to be saved as for a civilised society an enlightened independent judiciary is totally indispensable. The High Courts must take greater interest in the proper functioning of the subordinate judiciary. Inspection should not be a matter of casual attention. The constitution has vested the control of the subordinate judiciary under Article 235 in the High Court as a whole and not its Chief Justice alone. Every Judge should, therefore, take adequate interest in the institution which is placed under the control of the High Court. We may point out that is what Lord Atkins said in Debi Prasad Sharma v. King Emperor : AIR 1943 PC 202. And it has been approved by a Constitution Bench in

Baradakanta Mishra v. Registrar of Orissa
High Court : 1974 SCC (Cri) 128. It should be remembered by all the Judges of the High Court, viz. that the administrative control of the subordinate courts of the State vests not in the Chief Justice alone but in the court over which the Chief Justice presides. “

The fact that these cases have just remained pending in the court for over a decade, cuts a sorry figure for the judiciary and judicial administration as faith of the deposits/ investors who have been duped slowly and slowly and fades away which is not a good sign for the robust legal system.

Learned counsel for the applicant in this case seeks permission to withdraw the instant Application for grant of bail.

The learned APP has no objection for withdrawal of this Application since, according to him, the charge has been framed by the learned trial Judge. Hence the following order:

ORDER

Criminal Application (BA) No. 955/2015 is allowed to be withdrawn and disposed of as such.

Stand over to 4th February, 2016 for compliance of the above directions.

JUDGE

sahare