IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-30614 of 2016 (O&M)
Date of Decision: September 01, 2016

Smt.Shama @ Rozy and another

...Petitioners

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Jagdish Singh Rajput, Advocate for the petitioners.

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INDERJIT SINGH, J.

Petitioners Smt.Shama @ Rozy and Sidharath have filed this petition under Section 482 Cr.P.C. against respondents State of Haryana and Kailash Bundela for quashing of FIR No.72 dated 15.03.2016 under Section 3 of the Haryana Protection of Interest of Depositors Act, 2014 (hereinafter referred to as 'the Act') registered at Police Station Pinjore, Haryana and all other proceedings arising therefrom.

I have heard learned counsel for the petitioners and have gone through the record.

From the record, I find that FIR has been got registered by Kailash Bundela by filing a written complaint in which he levelled the allegations against the accused including the present petitioners, about paying ₹22 lacs to the accused as they were planning a kitty and after 20 months, ₹30 lacs would have to be refunded. It is allegation in the “FIR that money was not returned back. Rather, threatening was given

I have gone through the provisions of the Act. The definition of "financial establishment" has been given in the Act which says an individual, an association of individuals, a firm or a company registered under the Companies Act, 1956 (Central Act 1 of 1956) or a limited liability partnership registered under the Limited Liability Partnership Act, 2008 (Central Act 6 of 2009) accepting deposit under any scheme or arrangement or in any other manner but does not include a corporation or a cooperative society owned or controlled by any State Government or the Central Government or a banking company as defined under clause (c) of Section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949). Section 3(1) of the Act provides that a financial establishment which commits default in repayment of or benefit in the form of interest, bonus, profit or in any other form as establishment, promised or fails to render any specified service promised against such deposit, or fails to render any specific service agreed against the deposit with an intention of causing wrongful gain to one person or wrongful loss to another person or commits such default due to its inability arising out of impracticable or commercially not viable promises made while accepting such deposit or arising out of deployment of money or assets acquired out of the deposits in such a manner as it involves inherent risk in recovering the same when needed, shall be deemed to have committed a default or failed to render the specific service, fraudulently and is punishable under the Act.

Learned counsel for the petitioner mainly relied upon provisions of Section 4(1) of the Act and argued that complaint should be filed by the District Magistrate.

I have gone through the provisions of Section 4(1) of the Act. It relates to attachment of property on default of return of deposit and also the procedure to be adopted for attaching the property. At this stage, there is nothing to show that registration of the FIR against the present petitioners is abuse of process of law or amounts to miscarriage of justice. In no way, it can be held that no offence is made out against the present petitioners. They are named in the FIR and specific role has been attributed to them.

Therefore, finding no merit in the present petition, the same is dismissed.

September 01, 2016 **(INDERJIT SINGH)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **No**