

CRIMINAL APPEAL NO. 391 OF 2017

V/s.

Mrs. M.M. Deshmukh, APP for the State.

20th December, 2017.

P.C.

The appellant challenges the order passed by Learned Designated Court under M.P.I.D. Act at Bombay City Civil and Sessions Court, Mumbai in Misc. Application No.87 of 2017. The Designated Court Special Judge, MPID directed the appellant to deposit an amount of Rs.1.25 Crores received by him from accused

Harish Wagadia/F.E. M/s. Mangal Murti Developers within 60 days. The Counsel appearing for the appellant submitted that in the year 2009 FIR came to be registered against the accused for offences punishable under Sections 406, 420 and 120B of IPC. It is submitted that due to certain events and developments, Court orders, the project of construction of flats/bungalows could not start. The appellant is still pursuing his remedy so that the project would start. The appellant had submitted an indemnity bond to the police. It is submitted that to the extent of carpet area of 625 sq. feet of a flat, he will not create any third party interest as and when flat will be constructed. Learned Counsel submits that appellant is not an accused in the case. Based on the allegation that Wagadia invested money with appellant, the Investigating Officer filed application before the Court for seeking necessary orders.

2. The learned Prosecutor submitted that in accordance with provisions of Maharashtra Protection of Interest of Depositors (In financial Establishments) Act, 1999 (hereinafter referred to as MPID

for short) to protect the interest of the depositors, the Investigating Agency has submitted an application and in view of the facts and circumstances, the Special Court had taken into consideration relevant facts and circumstances to pass order directing the appellant to deposit the amount.

3. We have perused the record placed before us, considered the provisions of MPID Act, the object and scheme of the provisions which are relevant for the purpose.

4. By an order dated 28th April, 2017 the Division Bench extended time period by which appellant was to deposit Rs.1.25 Crores in the Court. The time for deposit was extended from time to time.

5. In the facts, prima-facie we notice that depositors had deposited amount with the main accused Harish Wagadia who invested an amount of Rs.1.25 Crores with the appellant. It is submitted that out of 5 Crores, Rs. 1.25 Crores was paid by the accused Harish Wagadia.

Since 2009 the amount is lying with the appellant. Obviously the appellant has utilised the said amount. It is submitted that project could not start for whatever reasons. It is not known as to when the project would start and at what point of time the flat having carpet area of 625 sq. feet would be reserved by the appellant by way of security towards the claim of the prosecuting agency.

6. Taking into consideration the object and scheme of the enactment and the facts of the case brought on record, we do not find that the trial Court committed error in passing the impugned order. We do not notice any perversity in the order. The Special Judge, MPID Court had taken into consideration relevant factors including provisions of Section 8 of the MPID Act.

7. For the reasons stated above, we are not inclined to interfere in the order passed by the trial Court. Appeal is dismissed.

(NITIN W. SAMBRE, J)

(NARESH H. PATIL, J.)