

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.562 OF 2016

1.Satish V.Shetty
2.Laxmidas Shetty

Applicants

vs

State of Maharashtra & ors

Respondents.

Mr.A.H.H.Ponda Sr.Counsel I.b Mr.Apoorv Singh for
Applicants

Ms.A.S.Pai APP for State

Ms.Datta Mane for Respondent nos.2 to 32

Ms.Bindal Bhatia I/b Mr.K.N.Bhatia for
Respondent nos.33 to 35

**CORAM : RANJIT MORE &
SARANG V. KOTWAL,JJ**

DATED: 16 JUNE 2017.

P.C.:

1. Heard learned Senior counsel for the Applicants, learned counsel for the respective Respondents and the learned APP for the State.

2. This Application is filed for quashing of the Criminal Case pending against Applicants before the Designated Court under Maharashtra Protection of Investors and Depositors Act (M.P.I.D.Special Case No.13 of 2005) for offences under sections

406,420 and 120-B of IPC and section 3 of MPID Act. The said case arises out of an FIR No.59 of 2002 registered with the Economic Offence Wing, Unit-VII, Criminal Branch, Mumbai against the Applicants and other co-accused.

3. The dispute between the applicants/accused and the private respondents was settled and in pursuance thereof, the Respondents-Investors have agreed to receive 75% of the total claim from the Applicants and balance 25% from other Accused facing trial who are not the Applicants before this Court. In pursuance of the understanding arrived between the parties, they approached this Court for quashing the said criminal case qua the Applicants, by consent. The Respondents-Investors have filed Affidavits giving their no objection to quash the said criminal case subject to the Applicants depositing/paying the amount of 75% of their claim in this Court.

4. The Criminal Application was placed before this Court on 3.3.2017. After hearing the parties, this Court (Hon'ble Shri Justice A.S.Oka and Anuja Prabhudessai, JJ) passed the following order :

1. "We have perused the report dated 3rd March 2017 submitted by the Senior Inspector of Police, Economic Offences Wing, Section 7, Criminal Branch, Mumbai. The report records that there are total 36 investors who are the victims of the offence and who have

invested various amounts with Sai Kripa Finance and Leasing Pvt.Ltd. It records that an inquiry was made with all the investors, except Ms.Roza Mathew Fernandes and Iqbal M.Motiwala, and all of them accepted that they have agreed to settle the dispute as far as the applicants are concerned by accepting 75% of the amount payable to them.

2. The learned APP pointed out that as far as Ms.Roza Mathew Fernandes and Iqbal M.Motiwala are concerned, on the basis of the record available, their names figure as investors. However, as their addresses are not traceable, their statements have not been recorded. The learned counsel appearing for the applicants on instructions states that 75% of the amount payable to all 36 investors including the said two persons will be deposited by the Applicants with this Court within a period of two months from today. He states that out of the total amount, a sum of Rs.80 lakhs will be deposited within a period of one month from today. We accept the said statements made on instructions. We direct the Registrar to accept the amount if deposited by the applicants. The learned counsel who are representing some of the investors also confirm the fact that their respective clients have agreed to settle the dispute with the applicants by accepting 75% of the amount payable to them.

3. For reporting compliance with the statement as regards the deposit of the sum of Rs.80 lakhs within a period of one month from today, the application shall be listed on 7th April 2017 under the caption of "Directions". Ad-interim relief granted earlier is extended till then. Registry to accept the amount from the Applicants.

4. We make it clear that if the requisite sum of Rs.80 lakhs is not deposited within one month from today, ad-interim will not be extended on the next date. Report dated 3rd March 2017 is taken on record and marked X-1 for identification. The report shall be kept on record in a sealed envelope."

5. In pursuance of the above order, the Applicants have deposited an amount of Rs.80 lakhs on 3.3.2017. The balance amount was also deposited subsequently on 6.6.2017. Thus, as on today, the Applicants have deposited a total amount of Rs.1,47,82,500/- in this

Court.

6. Apart from the Respondents-investors, there are two more investors namely Ms.Roza Mathew Fernandes and Iqbal M.Motiwalla. However, they are not made parties to this Application as their whereabouts are not known. The Applicants however, have deposited 75% of the amount in respect of claim of these two investors. Since there is no settlement between the Applicants and these two investors, the Applicants have filed fresh affidavits dated 16.6.2017 and have undertaken to pay to these investors the balance amount of 25% of the claim amount also as and when they approach them. The undertaking is accepted.

7. Mr.Mane learned counsel submitted that so far as the Respondent nos.27 and 28 namely Ms.Varija Shetty and Nafisa Morbiwalla are concerned, they have already received 75% of the amount of their claim from the Applicants. Statement accepted. Mr.Ponda learned senior counsel appearing for the Applicants submitted that so far as these two Respondents are concerned, their amounts are not deposited in this Court.

8. In the above circumstances, we find that the dispute

between the Applicants and Respondents-Investors is settled. These Respondents-Investors have also filed an Affidavit giving their no objection to quash the said proceedings qua the Applicants.

9. The learned counsel appearing for the respective Respondents also state that in the above circumstances, the said proceedings be quashed qua the Applicants. Thus, it can be seen that there is no dispute between the Applicants and the Respondents and there is no impediment is quashing the criminal proceedings against the Applicants.

10. Criminal Application is allowed in terms of prayer clause (a) qua the Applicants only and is accordingly disposed of.

11. It is made clear that the Designated Court under M.P.I.D.in Sessions Court, Mumbai, shall proceed with the MPID Special Case No.13 of 2005 arising out of F.I.R.No.59 of 2002 for offences under sections 420, 406 of IPC and Section 3 of MPID Act as against the other Accused in accordance with law.

12. The Registrar (Judicial-I) is directed to disburse the

amounts deposited by the Applicants to the concerned Respondents-Investors and Ms.Roza Fernandes and Iqbal M.Motiwalla in accordance with the Chart placed on record today by Mr.Ponda learned senior counsel for the Applicants which is not disputed by the Respondents-Investors. The said Chart is marked 'X' for the purpose of identification.

13. The Applicants are at liberty to approach the M.P.I.D. Court in respect of the reliefs claimed in prayer clause (c).

(SARANG V. KOTWAL, J)

(RANJIT MORE, J)