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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.958 OF 2017

Shah Traders through its partner
Smt. Rachna w/o. Prakash Shah ..Appellant.
V/s.
The State of Maharashtra & Anr. ..Respondents.

Mr.Chetan Agrawal with Mr.Pranav Dhakane and Mr.Amey Mhatre for the Appellant.

Mr.J.P.Yagnik, APP for the Respondent-State.

CORAM: R.M.SAVANT AND
N.J. JAMADAR, JJ.

DATE : NOVEMBER 26, 2018

P.C.:-

The above Criminal Appeal challenges the order dated November 2, 2017 passed on Exhibit-1 in Miscellaneous Criminal Application No.193/2017 passed by the learned Special Judge, Maharashtra Protection of Interest of Depositors Act (MPIDA), Nashik.

2. The principal grievance of the appellant is as regards the seizing of the bank account being No.109411031100 maintained in the Dena Bank MIDC Branch, Sinnar, District Nashik. The above Appeal had come up for admission before the Division Bench of this Court on December 15, 2017 when the Division Bench granted ad-interim relief and imposed conditions which are mentioned in paragraph three of the said order. The operative part of the said order containing the said conditions is reproduced hereinunder for the sake of ready reference.

"*i. By an interim order, we stay effect of the impugned communication dated 2nd November, 2017 issued by the Respondent No. 2 freezing the bank account No.109411031100 maintained by Dena Bank, MIDC Branch, Sinner, District Nashik and operated by the partnership firm of the Appellant and further direct that Account bearing No.109411031100 lying in Dena Bank, Sinner be allowed to be operated by the Petitioner Rachna Shah.*

ii. The bank shall not allow the Petitioner to utilize/withdraw an amount lying in the bank to the tune of Rs.6,00,000/.

iii. This order shall not preclude the Investigating Officer to complete the investigation. "

3. Hence, reading of the conditions which have been stipulated discloses that the said account No.109411031100 in the Dena Bank have been permitted to be operated. However, Dena Bank has been restrained from allowing the Appellant to utilize / withdraw the amount lying in the bank to the tune of Rs.6 lakhs. Hence by imposing the said condition, the interest of the depositors is sought to be protected. The same would undoubtedly be pending the proceedings before the Trial Court. In our view, having regard to the fact that the earlier Bench has deemed it appropriate to permit the Appellant to operate the account as also to keep an amount of Rs.6 lakhs untouched in the said account, it will be just and proper to dispose of the above Appeal in terms of the said ad-interim order dated December 15, 2017.

4. The learned APP fairly accedes to the said position. In our view, it is, therefore, now not necessary to keep the above appeal pending.

5. Needless to state that the amount of Rs.6 lakhs would be subject to the further orders that will be passed by the Trial

Court. The contentions of the parties as regards earmarking of the said amount and distribution thereof amongst the depositors are kept open for being urged before the Trial Court.

6. The appeal to accordingly stand disposed of.

(N.J. JAMADAR, J.) ***(R.M.SAVANT, J.)***