

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1045 OF 2019

Frontmen Impex Private Limited.

..Petitioner.

Versus

State of Maharashtra.

..Respondent.

Mr. S. M. Joseph for the Petitioner.

Mrs. A. S. Pai, APP for the Respondent-State.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : **May 3, 2019.**

P.C.:

1. Heard the learned counsel appearing for the respective parties. The Petitioner after obtaining liberty from the Apex Court in Writ Petition (Criminal) No.329 of 2018, is challenging the constitutional validity of section 4(2) of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 [for short, "the MPID Act"] to the limited extent of its application to the attachment of money and properties of those persons who are although referred to in section 4 of the MPID Act, but no money or property from out of the deposits received by the fraudulent financial establishment is traceable to them. The Hon'ble Apex Court has on

18th February 2019, passed following order in Criminal W.P. No. 329 of 2018 :

“We are not inclined to entertain this writ petition under Article 32 of the Constitution.

The petition is accordingly dismissed. However, it is open for the Petitioner to file a writ petition in the High Court.

Learned senior counsel for the Petitioner further submits that the judgment of this Court in K. K.Baskaran v. State & Ors. [(2011) 3 SCC 793] was basically dealing with legislative competence and may not come in his way. We need not express any opinion on the submission made by the learned senior counsel. It is always open for the Petitioner to make all his submissions in appropriate proceedings.”

2. Counsel for the Petitioner submitted that legislative competence of the State Legislature was tested in **K.K.Baskaran (supra)** and the limited issue raised in the present petition has not been considered in the said decision while upholding the validity of the MPID Act.

3. It is seen that the issue is already dealt with by the co-ordinate bench of this Court at Nagpur, where the Petitioner therein had sought direction for initiation of action of attachment of monies and properties of member brokers under section 4(1) of the MPID Act to protect the interest of unpaid depositors. The said Division Bench

in paragraph 6 has held thus :

“6..... In the background of Scheme of MPID Act, we, therefore, find no merit in the contention of the Petitioner that irrespective of the source of funds, which means, even without having received any money *“from out of the deposits collected by the Financial Establishments”*, in case of insufficiency for the purpose of repayment, every property, even if unconnected, legitimate or ancestral, would be liable to be attached merely because owner thereof is a Promoter, Director, Partner, Manager or Member. If the contention of the Petitioner is accepted, then the same would lead to absurdity. It is not the legislative intent to attach even those untainted properties, which are neither procured with any money which is arising *“from out of the deposits collected by the Financial Establishments”*, nor represent the equivalent value of any such monies actually received by a Promoter, Director, Partner, Manager or Member.”

4. The above order of the Division Bench was challenged before the Hon'ble Apex Court in Special Leave to Appeal (Cri) No.8062 of 2018. However, this SLP was dismissed by the Apex Court and the order of this High Court is upheld.

5. We find that issue raised in the instant petition in above limited extent has not been dealt with by the Apex Court in *K. K. Baskaran's V. State [(2011) 3 SCC 793]* while upholding the constitutional validity of the MPID Act. However, the scope of section 4(1) of the MPID has already been explained by the co-ordinate bench of this Court and upheld by the Apex Court.

6. The present petition is filed by the foreign investors raising various challenges to provision of section 4 of the MPID Act. In the light of decision of the co-ordinate bench of this Court at Nagpur referred to hereinabove, we are not inclined to entertain this writ petition for considering the validity of impugned section 4 of the MPID Act. The petition is accordingly disposed of.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]