

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

CRIMINAL WRIT PETITION NO. 3085 OF 2018

Farzana Riyaz Khan and ors. ...Petitioners.

Versus

The State of Maharashtra & ors. ...Respondents

Mr. Nitesh Sanjeeva Acharya, advocate for Petitioners.

Mrs. S.D. Shinde, APP for State.

**CORAM : B.P. DHARMADHIKARI &
SMT. SADHANA S. JADHAV, JJ.**

DATE : NOVEMBER 8, 2019.

P.C.:

1 On 17/12/2018 this Court, though not necessary, directed the investigating officer to look into the provisions of Maharashtra Protection of Depositors (In financial Establishment) Act, 1999.

2 Today when the matter is called, learned APP has no instructions from that investigating officer.

3 Counsel for the petitioners is opposing adjournment. He submits that there are several investors and the accused has already pocketed crores of rupees.

Talwalkar

4 Our attention is invited to MPID Misc. Application No. 1329 of 2017 and order passed upon it on 24/4/2018 by Special Judge, MPID Act, Mumbai. It appears that this Misc. Application was moved in FIR No. 62 of 2017.

5 The Special Court has found that further investigation in terms of section 173(8) of the Code of Criminal Procedure, 1973 was going on and till then investigating officer had not invoked provisions of MPID Act at all.

6 The petitioners state that in the meanwhile, accused may have disposed of properties, thereby prejudicing the chances of recovery.

7 In this situation, to protect the interest of investors, we find in the interest of justice to restore the request moved by the petitioners vide MPID Misc. Application No. 1329 of 2017 back to the file of Special Judge, MPID Act, Mumbai. Petitioners through their advocates and the investigating officer shall remain present in that court on 2/12/2019 for consideration of said application. The investigating officer shall explain to Special Court the outcome of further investigation.

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8 The Special Judge shall thereafter pass suitable orders on said application afresh within next 6 weeks.

9 With these directions, we dispose of the writ petition.

(SMT. SADHANA S. JADHAV, J) (B.P. DHARMADHIKARI, J)