IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.734 OF 2017
(PANCARD CLUBS LIMITED...VS.. STATE OF MAH. THR. PSO PS RAJAPETH & ANR.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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Shri D.V.Chauhan, Advocate a/w.Shri C.B.Barve, Adv. for Applicants.
Shri T.A.Mirza, A.P.P. for Non-applicants.

CORAM : Z.A.HAQ AND
PUSHPA V. GANEDIWALA, JJ.

DATED : OCTOBER 09, 2019.

Heard.

2. Applicant No.1-Company and its five Directors have invoked jurisdiction of this Court under Section 482 of the Code of Criminal Procedure to quash the First Information Report No. 789 of 2016, registered by the non-applicant No.1 for the offences punishable under Sections 420, 465, 467, 468, 471, 406, 409, 120-B of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interests of Depositors (in Financial Establishment) Act, 1999.

3. The applicant No.4-Usha Arun Tari died during pendency of this criminal application and her name is deleted on 14^{th} February 2019. The applicant No.5-Manish Kalidas Gandhi failed to co-operate in these proceedings. As the learned A.P.P. complained that applicant No.5 is absconding, it was directed that the applicant No.5 should remain present before this Court but the applicant No.5 failed to remain present before this Court and the learned Advocate representing him made a statement that he was not having any instructions

from applicant No.5. Hence, by order dated 25th February 2019, this Court has dismissed the application of applicant No.5-Manish Kalidas Gandhi.

4. The learned Advocate for the applicants, on instructions, states that the applicant No.6 is in jail, having been arrested in connection with some other crime registered for commission of the offence under Section 138 of the Negotiable Instruments Act.

5. We have considered the grievance of the applicant Nos.1 to 3 and 6. With the assistance of the learned Advocate for the applicant Nos. 1 to 3 and 6 and the learned A.P.P., we have examined the documents placed on record of this Criminal Application. It is not in dispute that the applicant No.1-Company had been in the business of providing services on room sharing basis. According to the Investigating Agency, the applicant No.1-Company floated about 20 schemes inviting investments from the investors and as there was certain complaints by the investors, the Securities and Exchange Board of India (hereinafter referred to as "SEBI") had passed *ad-interim* order on 31st July 2014 restraining the applicant No.1-Company from collecting any money/investments from the investors under any of its existing scheme and also restrained the applicant No.1-Company from launching any new scheme or floating any new company to raise fresh money.

6. According to the Investigating Agency, *ad-interim* order passed by SEBI was challenged in appeal which was also dismissed by the Securities Appellate Tribunal. In the reply filed before this Court, the Non-applicant No.1-State has

stated that inspite of the restraint order by SEBI, the applicant No.1-Company and its Directors continued to receive investments under the schemes floated by it.

7. The learned A.P.P. produced statements of about 5-6 investors to the effect that the applicant No.1-Company has taken investments from them after 31st July 2014. Certain vouchers are also produced to substantiate the statements. The learned A.P.P. submitted that as per the instructions given by the Investigating Agency, many more statements are recorded.

8. In the above facts, it cannot be said that there is no case at all against the applicant Nos. 1 to 3 and 6 and jurisdiction under Section 482 of the Code of Criminal Procedure is required to be exercised for quashing the First Information Report.

Hence, the Criminal Application is **dismissed**.

JUDGE **JUDGE**

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