

Anand

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2389 OF 2021

Janak Sanat Dalal

.Petitioner

Vs.

The State of Maharashtra & anr.

.Respondents

None for the Petitioner

Ms M. H. Mhatre, APP, for the Respondent No. 1 – State

Mr. Vinay Bhanushali i/b. Mr. Rabindra Hazari, Advocate, for the
Respondent No. 2

CORAM : NITIN JAMDAR AND
N. R. BORKAR, JJ.

DATE : 22 AUGUST 2022

P. C.

. None for the Petitioner.

2. The Petitioner has sought quashing the FIR, being MECR No. 01 of 2020 filed at the Marine Drive Police Station, Mumbai. The MECR is filed under Sections 406, 420 r/w 34 of the Indian Penal Code and under Section 3 of the Maharashtra Protection of Interest of Depositors Act (for short 'MPID').

3. It is the case of the Complainant in the FIR that the Petitioner, on the promise of a particular amount of return had taken

money from the Complainant and others and neither paid the assured returns nor returned the amount.

4. The Learned APP, on instructions, states that Closure Report ('C' Summary) is filed before the concerned MPID Court, Mumbai. The Learned Counsel for the Respondent No. 2 states that though this Court permitted the investigating officer to proceed with the investigation, he was directed not to file charge-sheet without seeking leave of the Court. He submits that in violation of that order, Closure Report has been filed.

5. The learned APP tendered an Affidavit of Mr. Morshareel Bilaluddin Patel, the Investigating Officer attached to the Nagpada Police Station, Tardeo, Mumbai tendering an unconditional apology that it was due to inadvertence that inspite of the order not to file charge-sheet, Closure Report came to be filed and he had no intention to disobey the order.

6. Once there was an interim order, officer should have sought necessary permission. Though we accept the unconditional apology out of indulgence, we put the officer to notice that any further breach of orders of this Court would be considered as an aggravated conduct.

7. The Learned Counsel for the Complainant states that Closure Report is entirely sketchy. He states that foundation of the

Closure Report that loan would not be treated as a deposit is not correct and the legal issue is pending in this Court and it is contrary to the settled position of law. The Learned Counsel for the Complainant states that he will file a Protest Petition in the light of the Closure Report filed. We have no doubt that the concerned Court will look at the Closure Report carefully and proceed as per law.

8. The Petition is accordingly disposed of.

(N. R. BORKAR, J.)

(NITIN JAMDAR, J.)