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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 290 OF 2021

Rajkumar Chainrai Basantani ... Applicant
V/s.
State of Maharashtra & Anr. ... Respondents

Mr. Manish Bohra, i/by M/s. A. S. Khan & Associates for the Applicant.

Ms. G. P. Mulekar, APP for the respondent No.1/State.

Mr. Manoj Mohite, Senior Advocate i/by Ms. Ushajee Peri for Respondent No. 2/SEBI.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 10, 2022

P.C.:

1. The challenge in this revision application is to the order of discharge of applicant/original accused from the offence punishable under Section 24(1) of the Securities and Exchange Board of India Act, 1992 (hereafter 'the SEBI', for short) r/w Regulation 7(1A) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulation, 1997 and framing of charge against the applicant/accused for offence punishable under Section 24(1) r/w Regulation 13(4) of the SEBI (Prohibition of Insider Trading) Regulation, 1992 and for offence punishable under Section 24(1) r/w Regulations 3(a) to 3(d), 4(2)(f) & 4(2)(r) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to

Securities Market) Regulations, 2003.

2. It is the case of the complainant that during course of investigation, it was revealed that the applicant along with other entities had sold shares of Soundcraft Industries Limited through trading member/applicant. It is further alleged in the complaint that the applicant was holding about 90.96 lakh shares, i.e., 11.22% of the share capital and as per document submitted by the company for listing of bonus issue, as on 15/03/2004, the distribution schedule shows a total issued capital of 2432.40 lakh shares (post issue). The holding of the applicant was 195.81 lakh shares. According to the complainant, therefore, the difference of holding as on 30/06/2003 and 15/03/2004 was 25.69 lakh shares amounting to about 3.17% sold by the applicant. However, there were no disclosures made by the applicant, violating Regulation 13(4) of the SEBI (Prohibition of Insider trading) Regulation, 1992.

3. It is also alleged by the complainant that during period December 2003 to August 2004, the shares of Soundcraft Industries Limited were sold through twelve related companies of Soundcraft Industries Limited and almost the entire holding of Soundcraft Industries Limited through related companies were off-loaded in the share market. The applicant was one of the brokers involved in the sale. It is also alleged that Soundcraft Industries Limited was in the verge of closure due to bad financial position. It is also alleged that before selling these shares, bonus shares were announced by Soundcraft Industries Limited in the ratio of

2:1, but no such bonus shares were dispatched to the shareholders. The details of the shares sold and the amount received by the applicant have been specified in paragraph 9 of the complaint. It is alleged that the applicant through his company, filed a Return of Allotment in March 2003, pursuant to Section 75(1) of the Companies Act, 1956 for allotting bonus shares with the Registrar of Companies, but did not complete formalities of listing the bonus shares on the exchange within six months, in spite of direction to that effect given by the SEBI. The complaint was, therefore, filed against the applicant alleging violation of Regulations 3(a) to 3(d), 4(2)(f) & 4(2)(r) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

4. During the pendency of the proceeding before the learned Special Court, the applicant/accused filed an application seeking discharge in a complaint filed by the respondent/original complainant under the provisions of Section 24(1) of the SEBI Act, 1992. The application for discharge, has been partly allowed by the impugned order. The applicant has been discharged from the offence punishable under Section 24(1) of the Securities and Exchange Board of India Act, 1992 r/w Regulation 7(1A) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulation, 1997.

5. The learned Special Judge in paragraphs 23 & 24 has considered averments in the complaint in the context of violation of the regulations, as alleged in the complaint.

6. I have perused the averments in the complaint and in particular, paragraphs 7 to 11.

7. Paragraphs 7 & 8 specifically alleged acts done by the applicant in his individual capacity. It is alleged that during the period from 30/06/2003 to 15/03/2004, the difference in holding was not communicated to the Bombay Stock Exchange violating Regulation 13(4) of the SEBI (Prohibition of Insider Trading) Regulation, 1992. In my opinion, considering material on record, no fault can be found with the order of the learned Special Judge for framing charge against the applicant for breach of provisions of Section 24(1) r/w Regulation 13(4) of the SEBI (Prohibition of Insider Trading) Regulation, 1992 and Section 24(1) r/w Regulations 3(a) to 3(d), 4(2)(f) & 4(2)(r) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

8. Taking into consideration the averments made in paragraphs 10 & 11, in my opinion, the averments and material on record, as produced before the learned Special Judge and this Court, I find that there is sufficient ground to proceed against the applicant for the offence punishable under Section 24(1) r/w Regulation 13(4) of the SEBI (Prohibition of Insider Trading) Regulation, 1992 and for offence punishable under Section 24(1) r/w Regulations 3(a) to 3(d), 4(2)(f) & 4(2)(r) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

9. There is neither perversity nor miscarriage of justice while passing the order. There is no merit in the revision application.

10. The criminal revision application is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)