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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.67 OF 2023

Shri. Nilesh Sadanand Surve,
S/o. Sadanand Surve,
42 years of age,
R/o. 306, Shankar Chaya Apartment,
Lokmanya Nagar Pada No. 4,
Thane West, Thane, Maharashtra-400606. ... Petitioner.

Versus

1. The Police Inspector,
Economic Offences Cell,
Altinho, Panaji-Goa.
2. The State of Goa,
Through the Public Prosecutor,
High Court of Bombay at Goa.
3. Smt. Prajakta Pradip Phadte,
W/o. Shri. Pradip Phadte,
R/o. H. No. 386, Banastrim,
Marcela, Ponda-Goa.
4. Shri. Pradip Phadte,
S/o. Mr. Padmanath Phadte,
R/o. H. No. 386, Banastrim,
Marcela, Ponda-Goa.
5. Smt. Niti Naik,
R/o. H. No. 177, Aagapur,
Ponda-Goa.
6. Mrs. Shanti Suresh Gaude,
R/o. H. No. 42, Murdi,
Kandepar, Ponda-Goa.

7. ICICI Bank,
Through its Branch Manager,
Glenmorgan Veer Savarkar Marg,
Panch Pakhadi, Thane.

8. Punjab National Bank,
Through its Branch Manager,
M.G. Road, Thane.

... Respondents.

Ms S, Nishad, Advocate for the Petitioner.

Mr S.G. Bhobe, Public Prosecutor for Respondent Nos.1 and 2.

**CORAM: M.S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED: 02 August, 2023

ORAL JUDGMENT: (Per Bharat P. Deshpande, J.)

1. Rule. Rule is made returnable forthwith. The matter is taken up for final disposal at the admission stage itself with the consent of parties.
2. Heard Ms S. Nishad, learned Counsel for the Petitioner and Mr S.G. Bhobe, learned Public Prosecutor for Respondent Nos.1 and 2.
3. Petitioner by filing present petition under Section 482 of Cr.P.C. is praying for quashing of FIR No.1/2023 dated 21.01.2023 registered by Respondent No.1/P.I., Economic Offences Cell, Altinho, Panaji, on a complaint lodged by Respondents for the offences punishable under Sections 406 and 420 IPC and Section 3 and Section 5 of Goa Protection of Interest of Depositors (Financial Establishment) Act, 1999, in short, GPIB Act.

4. For the reasons by which we propose to dispose of present petition, notices to other Respondents is not necessary.

5. The Petitioner claimed that he was working as a Manager with Karmabhoomi Infratech Reality Limited, of which the Chairman and Director are Accused No.1 and 2. The Petitioner was appointed as Divisional Manager vide appointment letter dated 01.05.2015 and posted at Goa. However, Petitioner resigned from the post of Divisional Director/Area Manager and his resignation was accepted with effect from 11.04.2021. The complaint was lodged by some of the investors. However, Mr Parag Parekh, the Police Sub-Inspector attached to Economic Offences Cell, Altinho, Panaji, Goa, after conducting inquiry, lodged his formal complaint dated 19.01.2023 against the Chairman, Managing Director of Karmabhoomi Infratech Reality Limited having its main office at Mathura (U.P.) and against Petitioner being the Area Manager.

6. After hearing the matter for some time, Mr Bhobe the learned Public Prosecutor fairly submitted, on instructions from the Respondent No.1 who is present in the Court that in fact the Petitioner has to be considered as a witness in the matter and not an Accused, considering his role in the said financial company as an Area Manager. He submits that the allegations of inducement are only against the Chairman and Managing Director of the said financial company and therefore, the Petitioner who was working only as Area Manager/employee of the said financial company, had no role in cheating the investors.

7. Mr Bhobe the learned Public Prosecutor further submitted that though the bank account of the Petitioner has been freezed, the same will be defreezed once he is made as a witness.

8. We have perused the complaint and are satisfied that the submission/statement made by the learned Public Prosecutor as instructed by the Investigating Officer would be the proper course in the circumstances and by doing so, the petition could be disposed of.

9. We accept the statement of the learned Public Prosecutor as instructed by the Investigating Officer that the Petitioner would be made as a witness and the bank account in the name of the Petitioner would be defreezed. We hope that such steps would be taken as early as possible for the simple reason that Petitioner was only an employee of the said financial company and further there are no allegations against him of any inducement or cheating so as to continue him as an Accused in the matter. We, therefore direct Respondent No.1, to remove the name of Petitioner from the array of Accused and add in the list of witnesses.

10. With these observations, the petition stands disposed of.

BHARAT P. DESHPANDE, J.

M.S. SONAK, J.

JOSE
FRANCISCO
DSOUZA

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