



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

920 CRIMINAL APPEAL NO. 960 OF 2024

Balasaheb Eknath Ambedkar
VERSUS
The State Of Maharashtra And Others

WITH

CRIMINAL APPEAL NO. 616 OF 2024
Balasaheb Eknath Ambekar And Another
VERSUS
The State Of Maharashtra And Others

WITH

CRIMINAL APPEAL NO. 952 OF 2024
Ramdas Ranba Gite
VERSUS
The State Of Maharashtra And Others

WITH

CRIMINAL APPEAL NO. 955 OF 2024
Gopala Krushna Kalamkar
VERSUS
The State Of Maharashtra And Others

WITH

CRIMINAL APPEAL NO. 964 OF 2024
Shankar S/o Rambhau Dhumal
VERSUS

The State Of Maharashtra And Others
Mr. N. B. Narwade, Advocate for the appellants
Mrs. P. V. Diggikar, APP for the respondent/State
Mr. N. B. Patekar, Advocate for the informant

AND

921 CRIMINAL APPEAL NO. 961 OF 2024

Balasaheb Eknath Ambedkar
VERSUS
The State Of Maharashtra And Others
WITH

CRIMINAL APPEAL NO. 956 OF 2024

Ramdas Ranba Gite
VERSUS
The State Of Maharashtra And Others

WITH

CRIMINAL APPEAL NO. 966 OF 2024

Shankar S/o Rambhau Dhumal
VERSUS
The State Of Maharashtra And Others

Mr. N. B. Narwade, Advocate for the appellants
Mrs. P. V. Diggikar, APP for the respondent/State
Mr. N. B. Patekar, Advocate for the informant

AND

922 CRIMINAL APPEAL NO. 963 OF 2024

Shankar S/o Rambhau Dhumal
VERSUS
The State Of Maharashtra And Others

WITH

CRIMINAL APPEAL NO. 617 OF 2024

Shankar Rambhau Dhumal
VERSUS
The State Of Maharashtra And Others

WITH

CRIMINAL APPEAL NO. 954 OF 2024

Gopala Krushna Kalamkar

VERSUS

The State Of Maharashtra And Others

WITH

CRIMINAL APPEAL NO. 959 OF 2024

Balasaheb Eknath Ambedkar

VERSUS

The State Of Maharashtra And Others

WITH

CRIMINAL APPEAL NO. 957 OF 2024

Ramdas Ranba Gite

VERSUS

The State Of Maharashtra And Others

Mr. N. B. Narwade, Advocate for the appellants
Mrs. P. V. Diggikar, APP for the respondent/State
Mr. N. B. Patekar, Advocate for the informant

AND

923 CRIMINAL APPEAL NO. 965 OF 2024

Shankar S/o Rambhau Dhumal

VERSUS

The State Of Maharashtra And Others

WITH

CRIMINAL APPEAL NO. 614 OF 2024

Gopal Krushna Kalamkar

VERSUS

The State Of Maharashtra And Others

WITH

CRIMINAL APPEAL NO. 953 OF 2024

Gopala Krushna Kalamkar

VERSUS

The State Of Maharashtra And Others

WITH
CRIMINAL APPEAL NO. 962 OF 2024
Balasaheb Eknath Ambekar
VERSUS
The State Of Maharashtra And Others

WITH
CRIMINAL APPEAL NO. 958 OF 2024
Ramdas Ranba Gite
VERSUS
The State Of Maharashtra And Others

Mr. N. B. Narwade, Advocate for the appellants
Mrs. P. V. Diggikar, APP for the respondent/State
Mr. N. B. Patekar, Advocate for the informant

CORAM : R. M. JOSHI, J.
DATE : 22nd OCTOBER, 2024

PER COURT :-

1. These appeals take exception to the orders dated 18/05/2024 passed below Exhibits 350, 356, 199, 375, 297 in Special Case Nos. 164/2018, 229/2018, 378/2018, 44/2022 and 59/2020.

2. The appellants are accused in connection with Crime Nos. 507/2018 registered with Nagar Taluka Police Station, 343/2017 registered M.I.D.C. Police Station, Ahmednagar, 32/2018 registered Pathardi Police, Station, Dist. Ahmednagar, 139/2017 registered with Rahata Police Station, Dist. Ahmednagar and 95/2018 registered with

Nagar Taluka Police Station, Dist. Ahmednagar for the offence punishable under Sections 420, 406, 406, 120-B of Indian Penal Code (for short 'IPC') and Section 3 of Maharashtra Protection of Interest of Depositors (In Financial Establishment) Act, 1990 (for short 'MPID' Act).

3. It is the case of the appellants that the Designated Court passed impugned orders under Section 7 of the Act. An application came to be moved before the Special Court on 3rd August, 2023 seeking direction for sale of the attached properties as published on 06/10/2022. The learned Judge passed impugned orders and being aggrieved by the same these appeals.

4. Learned counsel for the appellants submits that in view of Section 5(3) of the Act the Competent Authority is required to prefer an application within 30 days from the date of publication of the order passed of attachment of the properties before the designated Court. It is his submission that admittedly the application has not been moved within 30 days and therefore, the application is not maintainable and consequently order impugned cannot sustain. It is his further submission that properties which are attached are essentially ancestral properties and not purchased out of the money received from the investors. On these two counts the impugned orders are taken exception.

5. Learned APP as well as learned counsel for the informant opposed the said submissions. It is their contention that not only the properties which are believe to have been acquired from out of deposit collected by the financial establishment can be attached but also other properties of the said financial establishment or promoter or director are entitled to be attached. In so far as the objection with regard to the delay is concerned, he reliance is placed on the judgment of this Court in case of *Nimish Satish Deopujari Vs. The State of Maharashtra, 2020 (5) ABAR 362* to contend that the application beyond 30 days can be entertained.

6. There cannot be any dispute with regard to the fact that in view of the provisions of Section 5(3) of Act the competent authority is mandated to prefer an application within 30 days from the date of the publication of order of attachment of properties. This Court in case of *Nimish Satish Deopujari* (supra) has held that in absence of any bar expressed or by necessary implication for applicability of provision of Section 5 of the Limitation Act for condonation of delay in filing application, Section 5 of the Limitation Act would be applicable. Thus, in case of delay in moving such application, same can be condoned provided that sufficient cause is made out therefor. This Court finds no reason to take different view than the one taken in the judgment

(supra).

7. Indisputedly, the application has been filed beyond 30 days without seeking condonation of delay. Needless to say that unless the delay is condoned of designated Court would not get the jurisdiction to entertain such application. Since in the instant case there is no application for condonation of delay and the order is passed without condonation thereof, the order impugned cannot sustain. Therefore, it is a fit case to set aside the impugned orders and relegate the proceedings back to the designated Court for decision afresh. It would be open for competent authority to prefer application for condonation of delay. The same be decided in accordance with law. This Court does not wish to make any observation with regard to the other submissions made by the rival parties in respect of properties attached could be sold or not. The said issue is kept open for the consideration.

8. Hence, impugned orders are set aside.

9. Appeals stand allowed in above terms.

(R. M. JOSHI, J.)

ssp