

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO.722 OF 2023

1. Shital Abhijeet Sawant
Age – 34 Years, Occu. - Business,
R/at – Flat No.D-314,
Sharda Vihar Apartment,
Near Hockey Stadium,
Mangalwar Peth, Kolhapur

2. Archana Madhav Swami
Age – 38 Years, Occu. - Business,
R/o. - Plot No.67, Jarag Nagar,
Kalamba, Karvir,
Kolhapur – 416 007.

...Petitioners

Versus

1. The State of Maharashtra
2. Senior Police Inspector
Sinhgad Road Police Station, Pune
Vide C.R. No.68/2021
3. Senior Police Inspector
Shahupuri Police Station, Kolhapur
Vide C.R. No.92/2022
4. Senior Police Inspector
Sangola Police Station, Dist.-Solapur
Vide C.R. No.14/2023

5. Amol Baban Nalawade
Age – 36 Years, Occu. - Agriculturist
6. Sandhya Baban Nalawade
Age – 32 Years, Occu. - Agriculturist
Both are R/o. – Pachegaon, Tal. – Sangola,
Dist. – Solapur
7. Santosh Prabhakar Sawant
Age – 61 Years, Occu. - Retired,
R/o. - 1035, Shukrawar Peth, Tilak Road,
Pune
8. Firoz Sikandar Sanadi
Age – 41 Years, Occu. - Agriculturist
R/o. - At Post Bhoj, Tal. - Chikkodi,
Dist.- Belgaum, State – Karnataka
9. Babaso Baposo Patil
Age – 47, Occu. - Agriculturist
R/o. - At post Girgoun
Tal. Karveer, Dist. Kolhapur ...Respondents

***WITH
INTERIM APPLICATION NO. 2360 OF 2023
IN
CRIMINAL WRIT PETITION NO.722 OF 2023***

1. Shital Abhijeet Sawant
Age – 34 Years, Occu. - Business,
R/at – Flat No.D-314,
Sharda Vihar Apartment,
Near Hockey Stadium,
Mangalwar Peth, Kolhapur

2. Archana Madhav Swami
Age – 38 Years, Occu. - Business,
R/o. - Plot No.67, Jarag Nagar,
Kalamba, Karvir,
Kolhapur – 416 007.

...Applicants/
Orig. Petitioners

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1. The State of Maharashtra
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4. Senior Police Inspector
Sangola Police Station, Dist.-Solapur
Vide C.R. No.14/2023

...Respondents

Mr. Priyal G. Sardar a/w Ms. Seema Dighe, Mr. Shubham Sane and
Mr. Rajesh Ranglani, for the Petitioners/Applicants.

Ms. P. P. Shinde, A.P.P for the Respondent Nos.1 to 4-State.

***CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.
DATE : 25th NOVEMBER 2024***

ORAL ORDER (Per Revati Mohite Dere, J.):

1. Heard learned counsel for the parties.

2. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal. Learned APP waives notice on behalf of respondent Nos.1 to 4– State.

3. By this petition, the petitioners seek transfer of all cases registered against the petitioners to one Court in Kolhapur where C.R. No.92 of 2022; C.R. No.263 of 2022 and C.R. No.756 of 2022, all registered with the Shahupuri Police Station, Kolhapur, (Special Case No.01 of 2024), are pending.

4. Learned counsel for the petitioners states that the said clubbing of all cases under the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act ('MPID Act') will not only be in the interest of the investors but also in the interest of all the accused, so that all the cases can be expeditiously disposed of by one Court, without much delay.

5. Perused the papers. It appears that there are seven cases registered against the petitioners/accused and others. The same are as

under:-

Sr. No.	C.R. No./Sessions Case No./Court Name	Police Station	Accused Name	Sections	Investors
1.	CR/68/2021 Special Case No. 257 of 2021 District Judge 1 & Additional Sessions Judge, Pune	Sinhgad Police Station, Pune. Charge -sheet filed on 07.04.21	1)Abhijit D. Sawant 2)Santosh P. Sawant 3)Archana M. Sawant 4)Shital A. Sawant	U/s. 406, 417, 419, 427, 120(B), 506(2), 34 of IPC U/s. 3 of MPID U/s. 4, 5, 6 of Prize Chits & Money Circulation Scheme U/s. 3(25) of Arms Act U/s. 37(1) r/w. 135 of MP Act	2
2.	CR/ 92/2022 Special Case No. 01 of 2024 Sessions & District Judge 2, Kolhapur	Shahupuri Police Station, Kolhapur Charge - sheet filed on 19.12.23	1)Shubh Tradebij India LLP 2) Abhijit D. Sawant 3)Shital A. Sawant 4)Archana M. Swami 4)Firoz S. Sanadi 5)Bapuso B. Patil	U/s. 406, 420, 34 of IPC U/s. 3 of MPID	Clubbed by Order Dated 17/11/2022

3.	CR/263/2022	Shahupuri Police Station, Kolhapur	1)Shubh Tradebij India LLP 2) Abhijit D. Sawant 3)Shital A. Sawant 4)Archana M. Swami 4)Firoz S. Sanadi 5)Bapuso B. Patil	U/s. 406, 420, 34 of IPC U/s. 3 of MPID	Clubbed
4.	CR/756/2022	Shahupuri Police Station, Kolhapur	1)Shubh Tradebij India LLP 2) Abhijit D. Sawant 3)Shital A. Sawant 4)Archana M. Swami 4)Firoz S. Sanadi 5)Bapuso B. Patil	U/s. 406, 420, 34 of IPC U/s. 3 of MPID	Clubbed

5.	CR/14/2023 R.C.C. No. 476 of 2023 II Jt. Civil Judge J. D. J.M.F.C., Sangola	Sangola Police Station, Solapur Charge-sheet filed on 06.10.23	1)Amol Nalavade 2)Sandhya A. Nalavade 3)Abhijit D. Sawant 4)Shital A. Sawant 5)Archana Swami	U/s. 406, 420, 34 of IPC	5
6.	CR/313/2023 (Stayed By Hon'ble High Court) Special Case No. 285 of 2023 District Judge - 1, Kolhapur	Shahupuri Police Station, Kolhapur Charge -sheet filed.	1)Abhijit D. Sawant 2)Shital A. Sawant 3)Archana M. Swami 4)Shubh Tradebij India LLP	U/s. 405, 420, 463, 467, 471, 34 of IPC U/s. 3 of MPID	Stayed
7.	CR/561/2023 Special Case No. 156 of 2024 Sessions & District Judge - 3, Kolhapur	Shahupuri Police Station, Kolhapur Charge -sheet filed on 15.07.24	1)Shubh Tradebij India LLP 2)Abhijit D. Sawant 3)Shital A. Sawant 4)Archana M. Swami 5)Santosh P. Sawant	U/s. 406, 420, 34 of IPC U/s. 3 of MPID U/s. 4, 5, 6 of The Chit Funds Act, 1982	5

6. As far as C.R. No.313 of 2023 registered with Shahupuri Police Station, Kolhapur is concerned, it appears that the said case has been stayed by the Co-ordinate Bench of this Court and as such the question of clubbing the said case at this juncture, does not arise. It appears that three cases listed at serial Nos.2, 3 and 4 of the aforesaid chart i.e. C.R. No.92 of 2022; C.R. No.263 of 2022 and C.R. No.756 of 2022, all registered with the Shahupuri Police Station, Kolhapur, have already been clubbed by this Court vide order dated 17th November 2022.

7. Learned counsel for the petitioners seeks clubbing of cases listed at serial Nos.1, 5 and 7 of the aforesaid chart i.e. C.R. No.68 of 2021; C.R. No.14 of 2023 and C.R. No.561 of 2023 alongwith the aforesaid cases listed at serial Nos.2 to 4 i.e. C.R. No.92 of 2022; C.R. No.263 of 2022 and C.R. No.756 of 2022, pending before the learned Sessions and District Judge – 2, Kolhapur.

8. Learned APP has filed an affidavit of Mr. Vikrant Himmat Gaikwad, Sub-Divisional Police Officer, Mangalwedha Division, Mangalwedha, Solapur Rural, dated 12th March 2024; an affidavit of Ms. Prachi Dadasaheb Pawar, Police Sub Inspector, attached to Sinhgad Road Police Station, Pune, dated 13th March 2024; and an affidavit of Mr. Ajit Rajaram Tike, Sub-Divisional Police Officer, Kolhapur, dated 1st April 2024.

9. From a perusal of the aforesaid affidavits, it appears that there is an objection to transfer of the cases. However, what is not in dispute is that in C.R. No.68 of 2021, registered with the Sinhgad Road Police Station, Pune, there are 2 investors; in C.R. No.14 of 2023, registered with Sangola Police Station, Solapur, there are 5 investors; and in C.R. No.561 of 2023, registered with the Shahupuri Police Station, Kolhapur, there are 5 investors. It is also not in dispute that charge-sheet has been filed in all the said cases.

10. On 18th June 2024, we had granted leave to amend to the learned counsel for the petitioners to add the name of the other co-accused, as party respondents. Pursuant to which, amendment was carried out and respondent Nos.5 to 9 were added in the array of respondents. Vide the very same order dated 18th June 2024, notice was issued to the said respondents, returnable on 24th July 2024. In para 3 of the said order, we had noted that the notice shall indicate that an endeavor shall be made to dispose of the aforesaid petition finally at the stage of admission, even if none appears on behalf of the said newly added respondents.

11. The office noting shows that all the said newly added respondents have been duly served. Despite service, none appears on behalf of the newly added respondents.

12. As noted above, three C.Rs i.e. C.R. No.92 of 2022; C.R. No.263 of 2022 and C.R. No.756 of 2022, all registered with the Shahupuri Police Station, Kolhapur, have already been clubbed by this

Court vide order dated 17th November 2022. All the said three C.Rs are pending before the learned Sessions and District Judge – 2, Kolhapur.

13. Considering that in C.R. No.68 of 2021, registered with the Sinhgad Road Police Station, Pune, there are 2 investors; C.R. No.14 of 2023, registered with the Sangola Police Station, Solapur, there are 5 investors and C.R. No.561 of 2023, registered with the Shahupuri Police Station, Kolhapur, there are 5 investors, we deem it appropriate in the peculiar facts of this case to transfer the said three C.Rs to the Court of the learned Sessions and District Judge – 2, Kolhapur, where the other three C.Rs i.e. C.R. No.92 of 2022; C.R. No.263 of 2022 and C.R. No.756 of 2022, all registered with the Shahupuri Police Station, Kolhapur, are already pending. The said order is being passed keeping in mind that there are only 2 to 5 investors in the said case. This will not only allow the investors to get justice expeditiously but will also eliminate adjournments by the accused citing reason that they are required to be present before

different Courts.

14. Accordingly, C.R. No.68 of 2021, registered with the Sinhgad Road Police Station, Pune, C.R. No.14 of 2023, registered with Sangola Police Station, Solapur, and C.R. No.561 of 2023, registered with the Shahupuri Police Station, Kolhapur are transferred to the Court of the learned Sessions and District Judge – 2, Kolhapur.

15. Petition is allowed and is accordingly disposed of. Rule is made absolute on the aforesaid terms.

16. In view of the aforesaid, the Interim Application being Interim Application No.2360 of 2023, does not survive and the same is also disposed of.

. All concerned to act on the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.