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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 368 OF 2021**

- | | |
|--------------------------------------|----------------|
| 1. Raj Shyam Tandon | |
| 2. Ashish R. Tandon | |
| 3. Shanti H. Tandon | |
| 4. M/s. Scorpion Agro Farm Pvt. Ltd. | ...Petitioners |
| Versus | |
| 1. The State of Maharashtra | |
| 2. Prashant V. Agarwal | |
| 3. Jogen Desai | |
| 4. Vidhi Shah | |
| 5. Kalavati Shah | |
| 6. Bhavesh Shah | |
| 7. Shrichand Makhija | |
| 8. Nandlal Makhija | |
| 9. Manisha Makhija | |
| 10. Ramesh Bajaj | |
| 11. Dayal Bajaj | |
| 12. Dilip Parikh | |
| 13. Jatin A. Modi | |
| 14. Atul Shah | |
| 15. Hitesh Shah | ...Respondents |

Mr. Pritesh Burad a/w. Ms Samita Vaviya and Ms Shriya Sardal
i/b M/s.Pritesh Burad Associates for the Petitioners.
Ms Rutuja Ambekar, APP for the Respondent/State.
Mr.Aditya Andhorikrar for Respondent No.2.
Mr. Nehal Derale for the Intervenors.

CORAM	:	PRAKASH D. NAIK & N. R. BORKAR, JJ.
DATE	:	22.02.2024.

PC:-

1. Leave to add the aggrieved persons as respondents and also to amend the prayer clause. Amendment be carried out forthwith.

2. The petitioners impugn the first information report (FIR) dated 05.02.2018 registered with L.T. Marg Police Station, Mumbai vide FIR No.37 of 2018 for the offences under Sections 406, 420 read with 34 of the Indian Penal Code and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (MPID Act).

3. The grievance of the complainant is that the investors have deposited the amount with the accused by expecting returns in the form of interest. However, the amount was misappropriated by the accused. The first information report refers to about 13 investors including the complainant. The investigation proceeded and the charge-sheet has been filed against petitioner No.1 and the proceedings in Special Case No.101153 of 2020 are pending before the Special Judge, M.P.I.D. Act, Greater Mumbai.

4. It is jointly submitted by learned Advocate for the petitioners, respondent No.2 and the added respondents (investors) that the parties have amicably resolved the dispute. The Memorandum of Understanding has been executed

between them which has been affirmed on 1.2.2024. In view of the consent terms reflected in the Memorandum of Understanding, the impugned proceedings can be quashed.

5. The complainant and the investors are represented by the Advocate. The investors and the complainant are present in the Court. They have expressed their consent for quashing the proceedings in view of the settlement.

6. It is submitted out that the amount of Rs.16,14,468/- was deposited with the Investigating Officer during the course of investigation. The balance amount of Rs.10,85,532/- by way of Demand Draft is being handed over to Shamdas & Co. towards the settlement which is to be distributed amongst the complainant and the investors. It is also submitted that the amount of Rs.16,14,468/- which has been deposited with the Investigating Officer may be directed to be returned to Shamdas & Co. and on receipt of said amount, it is agreed that Shamdas & Co. shall distribute the said amount amongst the complainant and the investors.

7. Learned APP, on instructions from the Investigating Officer, confirmed the fact that the amount of Rs.16,14,468/- was deposited with the Investigating Officer and in the light of directions, if any, issued by this Court the said amount would be returned to the respondents or to the parties as directed by this Court. It is also submitted that there are total 13 investors including the complainant.

8. Considering the fact that the dispute has been settled and the consent of respondents for quashing the proceedings which include the complainant and the respondents, the impugned proceedings and the FIR can be quashed and set aside.

ORDER

A] Writ Petition is allowed.

B] The charge-sheet filed before the Special Judge, M.P.I.D. Act and Additional Sessions Judge, Greater Mumbai bearing Special Case No.101153 of 2020 against the petitioner No.1 is quashed and set aside.

C] The FIR dated 5.2.2018 registered with L.T. Marg Police Station, Mumbai vide FIR No.37 of 2018 is quashed and set aside against the petitioner Nos.2 to 4.

D] Amount of Rs.16,14,468/- deposited with the Investigating Officer shall be paid in the name of Shamdas & Co. by the Investigating Officer by way of Demand Draft. The Investigating Officer shall hand over the Demand Draft of Rs.16,14,468/- drawn in the name of Shamdas and Co. to respondent No.2-complainant. On receipt of said amount, Shamdas & Co. shall distribute the same to the complainant and the investors, as agreed by the parties within three weeks from the date of this order.

E] The petitioners shall pay the cost of Rs.10,000/- each to the Advocates' Association of Western India Generation Next within a period of three weeks from today and submit the receipt of the same in the Registry of this Court. The details of the bank account for payment of costs are as under:

Account Name	:	Advocates' Association of Western India Generation Next
Account Number	:	000110110007807
Bank Name	:	Bank of India
Branch Name	:	Mumbai Main
IFSC Code	:	BKID0000001

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)