

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1273 OF 2024

Surekha Jayant Shetty And Anr. .. Appellants

Versus

The State Of Maharashtra And Ors. .. Respondents

WITH
CRIMINAL APPEAL NO. 1152 OF 2024

Vanita Harish Shetty And Ors. .. Appellants

Versus

The State Of Maharashtra And Ors. .. Respondents

WITH
CRIMINAL APPEAL NO. 1153 OF 2024

Vanita Harish Shetty And Ors. .. Appellants

Versus

The State Of Maharashtra And Ors. .. Respondents

WITH
INTERIM APPLICATION NO. 5061 OF 2024

Prada Sadhu Shetty	..	Applicant
<u>IN THE MATTER BETWEEN:</u>		
Vanita Harish Shetty And Ors.	..	Appellants
Versus		
The State Of Maharashtra And Ors.	..	Respondents

...

Mr. Aabad Ponda, Senior Counsel i/b Mr. Jugal Kanani, for the Appellants in Appeal/1273/2024.

Mr. Aabad Ponda, Senior Counsel i/b Mr. Vikram Sutariya, Mr. Advait V. Shukla, for the Appellants in Appeal/1152/2024 and 1153/2024.

Mr. Taraq Sayed a/w Mr. Sachin Mhatre, Ms. Ishita Kamath, Mr. Anish Pepria, for the Intervenor/Applicant in IA/5061/2024.

Mr. J. P. Yagnik, A.P.P. for the State/Respondent.

Mr. Avish Kumar Sonune, C.A. & Dy. Collector, Bhandup and Mr. Shrikant Dhumal, API, EOW, Unit-8, Mumbai are present.

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**CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 9th DECEMBER, 2024**

P.C:-

1. The three Appeals listed before us, in addition to the facts involved, have also raised a specific ground in respect of the impact of the Banning of Unregulated Deposit Schemes Act, 2019 (the “BUDS Act”), a legislation of Parliament, on the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (the “MPID Act”), an enactment passed by the State Legislature, and a question of law formulated therein is with respect to the applicability of the provisions of the MPID Act, post 21.02.2019 and its impact on the initiation of the prosecutions and the subsequent actions which include the attachment of the properties under the MPID Act by the Competent Authority.

2. On 24.10.2024 while hearing the Criminal Appeal No. 1152 of 2024 alongwith Criminal Appeal No. 1153 of 2024, we had clearly formulated the issue that fall for our consideration in the two Appeals, in the backdrop of the reliance placed by the learned senior counsel Mr. Ponda, on the decision of the Kerala High Court in case of *P. Raveendran Pilla Vs. State of Kerala, represented by the Chief Secretary and Ors. [WP(C)No. 18199/2020]*, where the conflict in the two legislations had drawn the attention of the learned Single Judge.

We directed the State to file its Affidavit and therefore Shri. Amrut Pawar, Police Inspector, attached to EOW (Unit-8) Mumbai, has affirmed an affidavit on 07.12.2024 which is tendered before us during the course of hearing. Apart from traversing the allegations in respect of the facts involved, the officer has also dealt with the two legislations and highlighted the key differences therein.

An attempt is made to submit that since the BUDS Act is a central law with the nationwide application, which has a different purpose as could be seen from the preamble as well as provisions contained therein, an attempt is made to justify the constitutional validity of the MPID Act, by submitting that both laws can co-exist and cases under the MPID Act can continue even after BUDS Act came into force by referring to the purpose and application of both the Acts and considering its legislative impact. The Affidavit is taken on record.

3. In the order which we have passed on 24.10.2024

in the two Appeals referred to above, we have recorded the categorical statement of the learned A.P.P. on instructions of the Competent Authority, who was present in the Court, that the status-quo shall be maintained in respect of the properties covered in the impugned order dated 10.10.2024.

4. The third Appeal i.e. Criminal Appeal No. 1273 of 2024 which is also listed alongwith the two Appeals, raise a similar challenge and we expect the Respondents only to respond to the factual aspects, as the legal issue that is raised in the Appeal is identical to the one which fall for consideration in Criminal Appeal Nos. 1152 of 2024 and 1153 of 2024.

As regard the interim relief claimed in this Appeal is concerned, Mr. Yagnik make a statement on instructions that considering the similarity of the issues raised in the three Appeals, status-quo shall also be maintained qua the properties in the impugned notification which the subject matter of challenge in this Appeal too.

5. Recording the aforesaid statement we permit the Respondents to file its Affidavit on the factual aspect, since we find that the Affidavit which is accepted by us today in the other two Appeals cover the legal issue.

6. Since a critical issue of law is involved, we would like to have the presence of the learned Advocate General in the said matter and Mr. Yagnik may consult him and apprise us about the date on which the learned Advocate General can

make himself available.

Re-notify to 12.12.2024. To be listed under the caption 'for Directions'.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)