



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO.52 OF 2024

Mrs. Dimple W/o Kamlesh Kanungo
Aged about 38 years, Occ: Housewife,
R/o 601, C-Wing, Boumount Prabhadevi,
Mumbai – 400 025.

through her constituted Attorney
Mr. Jitendra Champalal Kanungo.

...PETITIONER

...VERSUS...

1. The State of Maharashtra,
Through the Investigating Officer,
Economic Wing Offence (EOW),
Crime Branch, Fourth Floor, Administrative
Building, Civil Lines, Nagpur.

2. Competent Authority,
Appointed under the provisions of MPID
Act, 1999 at Nagpur.

...RESPONDENTS

Shri K.H. Dodani, Advocate for petitioner.
Shri Aditya Gohokar, A.P.P. for respondents.

CORAM:- M.W. CHANDWANI, J.
DATED : 27th MARCH, 2024.

ORAL JUDGMENT:

. **Rule.** Rule is made returnable forthwith. Heard finally
at the admission stage with consent of the learned counsel for the
parties.

2. It is not necessary to go into matrix of the case in
detail, suffice to say that the petitioner has filed an application
before the learned Special Judge, M.P.I.D., Nagpur for direction to

the respondents to return cash amount of Rs.1,15,00,000/- deposited by the petitioner under the directions of the investigating agency on the premise that the investigating agency has given clean chit to the present petitioner and she has not been charge-sheeted alongwith other co-accused in Crime No.156/2014 registered with Police Station, Ambazari, Nagpur for the offence punishable under Sections 420, 406, 506 read with section 34 of the Indian Penal code and under Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999. Pending said application, the learned Public Prosecution filed an application vide Exhibit-5 seeking directions from the learned Special Court to direct the petitioner to file an affidavit of evidence so that the Public Prosecutor can cross-examine her. The said application came to be allowed by the impugned order, which is reproduced as under:

“Heard learned APP Smt. Pande and learned advocate Shri Gaur. The application is allowed.

*Sd/-
06/10/2023”*

3. Perusal of impugned order would show that the order is sans reason. It is settled position of law that the order without reason is *non est*. That apart, by the application, direction is sought by the learned Public Prosecutor to file an affidavit of

evidence so that she can cross-examine. The position would have been different if the Public Prosecutor had sought permission to cross-examine the petitioner in respect of the contentions made by her in her application for refund of the amount.

4. Be that as it may, since the order does not reflect reason therefore, it does not sustain in the eyes of law. Accordingly, it needs to be set aside. Hence, I pass the following order:

ORDER

i. The impugned order dated 06.10.2023 passed by the Special Judge, M.P.I.D., Nagpur in Miscellaneous Criminal Application No.144/2023 is set aside.

ii. The matter is remanded back to the Special Judge, M.P.I.D. Nagpur for deciding Application Exhibit-5 afresh by reasoned order, after giving opportunity to the petitioner to file detailed reply.

Rule is made absolute in above terms.

JUDGE

Wagh