



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.243 OF 2025

1. Rameshwar S/o. Dharmraj Tandale,
Age : 38 years, Occu. : Agriculture,
R/o. : "Omkar Nivas", Bhatwadgaon,
Post Majalgaon, Tq. Majalgaon,
Dist. Beed.

2. Pandurang S/o. Sudam Tandale,
Age : 40 years, Occu. : Agriculture,
R/o. Govindwadi, Post, Kitti Adgaon,
Tq. Majalgaon, Dist. Beed.

... Applicants
(Orig. Accused)

Versus

1. The State of Maharashtra,
Through Station In-charge, Majalgaon
(City) Police Station,

2. Kiskinda Manaji Hirve,
Age : 54 Years, Occu : Business,
R/o : Khanapur, Tq. Majalgaon,
Dist.-Beed

....Ori. Complainant

3. Shivhari S/o Ashok Yadav,
Age : 36 years, Occu : Chairman,
Dhunkeshwar Urban Nidhi Ltd.
Majalgaon, R/o. Shikshak Colony,
Bhatwadgaon, Tq. Majalgaon,
Dist.-Beed.

4. Sachin S/o Pandurang Rodge,
Age : 37 years, Occ : Vice-Chairman,
Dhunkeshwar Urban Nidhi Ltd.
Majalgaon, R/o- Adjacent to Keshavrao
Mangal Karyalaya, Bhatwadgaon,
Tq. Majalgaon, Dist. Beed.

5. Shankar S/o Ashok Yadav,
Age : 30 years, Occu : Branch Officer,
Dhunkeshwar Urban Nidhi Ltd.
Majalgaon, R/o- Dhunkawad,
Tq. Dharur, Dist.-Beed.

6. Dattatraya S/o Renukadas Nandurkar,
Age : 35 years, Occ : Manager,
Dhunkeshwar Urban Nidhi Ltd.
Majalgaon, R/o. Bramhgaon,
Tq. Majalgaon, Dist. Beed.
7. Dilip S/o Anna Bhise,
Age : 32 years, Occ : Recovery Officer,
Dhunkeshwar Urban Nidhi Ltd.,
Majalgaon, R/o. Fulenagar,
Majalgaon, Tq. Majalgaon, Dist. Beed.
8. Ashok S/o Subhash More,
Age : 25 years, Occ : Cashier,
Dhunkeshwar Urban Nidhi Ltd.
Majalgaon, R/o-Shelapuri,
Majalgaon, Tq. Majalgaon, Dist.-Beed.
9. Sunil S/o Babruwan Fapal,
Age : 28 years, Occ : Loan Officer,
Dhunkeshwar Urban Nidhi Ltd.
Majalgaon, R/o. Belura,
Tq. Majalgaon, Dist. Beed.
10. Sanjiwani Vasant Katare,
Age : 31 years, Occ. Clerk,
Dhunkeshwar Urban Nidhi Ltd.,
Majalgaon R/o Dindrud, Tq - Majalgaon,
Dist.-Beed.
11. Anant Bhagwat Dhapate,
Age : 22 years, Occu : Peon,
Dhunkeshwar Urban Nidhi Ltd.,
Majalgaon, R/o. Laul, Tq- Majalgaon,
Dist.-Beed.

... Respondents
(Resp. nos.3 to 11 are
formal respondents.

WITH

CRIMINAL REVISION APPLICATION NO.129 OF 2025

1. Rameshwar S/o. Dharmraj Tandale,
Age : 38 years, Occu. : Agriculture,
R/o. : "Omkar Nivas", Bhatwadgaon,

Post Majalgaon, Tq. Majalgaon,
Dist. Beed.

2. Pandurang S/o. Sudam Tandale,
Age : 40 years, Occu. : Agriculture,
R/o. Govindwadi, Post. Kitti Adgaon,
Tq. Majalgaon, Dist. Beed.

... Applicants
(Orig. Accused)

Versus

1. The State of Maharashtra,
Through Station In-charge, Majalgaon,
(City) Police Station,

2. Trimbak S/o. Mhatarba Yadav,
Age : 65 Years, Occu : Agril.,
R/o : Mothewadi, Tq. Majalgaon,
Dist.-Beed.

....Ori. Complainant

3. Shivhari S/o Ashok Yadav,
Age : 36 years, Occu : Chairman,
Dhunkeshwar Urban Nidhi Ltd.
Majalgaon, R/o. Shikshak Colony,
Bhatwadgaon, Tq. Majalgaon,
Dist.-Beed.
4. Sachin S/o Pandurang Rodge,
Age : 37 years, Occ : Vice-Chairman,
Dhunkeshwar Urban Nidhi Ltd.
Majalgaon, R/o- Adjacent to Keshavrao
Mangal Karyalaya, Bhatwadgaon,
Tq. Majalgaon, Dist. Beed.
5. Shankar S/o Ashok Yadav,
Age : 30 years, Occu : Branch Officer,
Dhunkeshwar Urban Nidhi Ltd.
Majalgaon, R/o- Dhunkawad,
Tq. Dharur, Dist.-Beed.
6. Dattatraya S/o Renukadas Nandurkar,
Age : 35 years, Occ : Manager,
Dhunkeshwar Urban Nidhi Ltd.
Majalgaon, R/o. Bramhgaon,
Tq. Majalgaon, Dist. Beed.

7. Dilip S/o Anna Bhise,
Age : 32 years, Occ : Recovery Officer,
Dhunkeshwar Urban Nidhi Ltd.,
Majalgaon, R/o. Fulenagar,
Majalgaon, Tq. Majalgaon, Dist. Beed.
8. Ashok S/o Subhash More,
Age : 25 years, Occ : Cashier,
Dhunkeshwar Urban Nidhi Ltd.
Majalgaon, R/o-Shelapuri,
Majalgaon, Tq. Majalgaon, Dist.-Beed.
9. Sunil S/o Babruwan Fapal,
Age : 28 years, Occ : Loan Officer,
Dhunkeshwar Urban Nidhi Ltd.
Majalgaon, R/o. Belura,
Tq. Majalgaon, Dist. Beed.

... Respondents

(Resp. nos.3 to 9 are
formal respondents.

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Mr. N. P. Bangar, Advocate for Applicants/Revision Petitioners.
Mrs. P. V. Diggikar, APP for Respondent – State.
Mr. S. S. Solanke, Advocate for Respondent No.2.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 09 DECEMBER 2025

PRONOUNCED ON : 19 DECEMBER 2025

JUDGMENT :

1. In both these revisions, revisionists - original accused are taking exception to the impugned orders dated 10.04.2025 and 19.03.2025, respectively, passed by Additional Sessions Judge, Majalgaon, thereby invoking powers under section 175(3) of B.N.S.S., on receipt of complaints from present respondent No.2,

Kiskinda Manaji Hirve and Trimbak S/o. Mhatarba Yadav, respectively.

2. Learned counsel for both the revisionist would submit that, present revision petitioner no.1 was working as a Secretary of Dhunkeshwar Urban Nidhi, which is a Nidhi Company incorporated under the Companies Act, whereas petitioner no.2 was a Director. That, however, revision petitioner no.1 had already tendered resignation on 10.05.2024 and his resignation was also duly accepted on the same day, of which even communication was made to him discharging him from responsibilities since 09.06.2024. That, as regards to revision petitioner no.2 is concerned, he was merely a Director and was not responsible for the day to day affairs of the company. It is pointed out that, complaint has been received and entertained directly by the learned Additional Sessions Judge, wherein there are allegations of commission of certain offences under B.N.S.S. as well as M.P.I.D. Act. That, learned court below failed to appreciate that allegations were in fact general and omnibus in nature and were non specific. However, in spite of so, erroneously cognizance has already been taken and directions are given to investigate. According to them, there is non application of mind to the contents of complaint and in a mechanical manner impugned orders have been passed.

3. It is further submitted that, another patent illegality here committed is that, company is not made a party, but still above impugned order has been passed. That, here, company was necessary party to be impleaded. On this count, he seeks reliance on the judgment of the Hon'ble Apex Court in the case of ***Sunil Bharti Mittal v. Central Bureau of Investigation***, [(2015) 4 SCC 609] as well as judgment of this court in the case of ***Arun P. Gidh v. Chandraprakash Singh and Ors.***, [2024 SCC OnLine Bom 1028].

4. It is further submitted that, yet another irregularity committed here is that, there was no committal order passed by any Magistrate having jurisdiction so as to empower learned Additional Sessions Judge to entertain and pass the impugned order.

For above reasons, impugned orders dated 10.04.2023 passed in Criminal Misc. Application No.14/2025 and impugned order dated 19.03.2025 passed in Criminal Misc. Application No.12/2025 along with the FIR, are sought to be quashed and set aside.

5. Learned counsel for original complainant supports the impugned orders and according to him, the same are just and legal,

and as according to him, there being provisions of M.P.I.D. Act, the specially designated court is the repository of powers to deal with such cases.

6. Perused the papers. Here, order passed by Additional Sessions Judge, Majalgaon directing investigation by invoking section 175(3) of B.N.S.S. is under challenge. Said provision is reproduced as under :-

Section 175 - Police officer's power to investigate cognizable case.

(3) Any Magistrate empowered under section 210 may, after considering the application supported by an affidavit made under sub-section (4) of section 173, and after making such inquiry as he thinks necessary and submission made in this regard by the police officer, order such an investigation as above-mentioned.

The above provision is analogous to previous provision under section 156(3) of Cr.P.C.

7. It appears that, one Kiskinda Manaji Hirve and Trimbak Mhatarba Yadav have filed private complaints bearing Criminal Misc. Application Nos.14/2025 and 12/2025 before learned Additional Sessions Judge, Majalgaon and its substance is that, 10 to 11 accused named in the both FIR, who were officiating in various capacities in

Dhunkeshwar Urban Nidhi Ltd., Majalgaon by assuring handsome returns and attracted fix deposits. Both complainant claimed that, believing accused persons, they had invested various amounts to the tune of Rs.16,80,349/- and Rs.40,25,363, respectively, at various times and when the refund was demanded, it is alleged that, initially on one or other count, time was sought to make repayments, but finally there was refusal to return the money and so having felt cheated and duped, they both made following prayer for conducting inquiry at the hands of police and to register crime accordingly :-

“After investigating the complainant’s complaint, it is necessary to send the case to Majalgaon City Police Station for filing a First Information Report (FIR) in order to bring forth the true circumstances of the present case and identify the remaining accused. Therefore, it is requested that legal action be taken against all individuals connected with the concern institution.”

(As translated by Senior Translator, High Court of Bombay Bench at Aurangabad)

8. Here, much emphasize is laid by learned counsel for revision petitioners on the point that, there is Non-application of mind by the court below to the very contents of the complaint and directly cognizance has been taken without due satisfaction as required under law and further investigation is also directed at the hands of police. The second limb of their argument is that even company is not arraigned as an accused and thirdly, even when there was no committal order by any learned Magistrate, directly

complaints have been entertained by the Court of learned Additional Sessions Judge, which according to them, is impermissible.

9. The impugned order below Exh.1 is reproduced as under :-

“Perused the complaint, affidavit of applicant, submission of concerned Police Officer and documents on record. Heard learned Advocate for applicant. On perusal of record it appears that investigation in detail is necessary in this matter. Considering the peculiar facts of the case it appears to be just and proper to order an investigation under section 175(3) of B.N.S.S. Hence, concerned Police Officer of Majalgaon City Police Station to investigate the matter and file report under section 175(3) of B.N.S.S. The copy of this order be sent to concerned Police Officer, Majalgaon City Police Station.

Application be disposed of accordingly.”

10. Here, the issue of competence of learned Additional Sessions Judge to direct investigation, is required to be dealt at the threshold. Admittedly, here, jurisdiction of Court of Additional Sessions Judge has been invoked vide above Criminal Misc. Applications. In the complaint, allegations are of commission of offence under sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (M.P.I.D. Act) and rest of the offences alleged are 318(1), 318(2), 318(4), 336(2), 338, 340(1) of B.N.S.S., 2023.

The object of M.P.I.D. Act 1999 is to protect the interest of depositors. Here also, prima facie, there are averments in the complaint that by approaching complainant, investments were attracted by way of fix deposits. Consequently, the said court being the designated court dealing with M.P.I.D. cases, which is a distinct and a special statute, is indeed empowered to entertain cases of such nature. It being special statute, Court of learned regular Magistrate does not assume power. Hence, complaints seem to have been entertained. Even otherwise, powers of Magistrate are analogues to the powers of Special Judge. It is fairly settled position that Special Judge takes a seat of Magistrate as a court of original jurisdiction while functioning as a Special Judge. This position is clarified in the judgment of ***A. R. Antulay v. Ramdas Srinivas Nayak and Ors.***, AIR 1984 SC 718, and the relevant text to that extent is reproduced as under. Gist of the paragraph 27 of the said judgment is as under :

“The Court or a Special Judge is a Court of original criminal jurisdiction. As a court of original criminal jurisdiction in order to make it functionally oriented, some powers were conferred by the statute setting up the courts. Except those specifically conferred and specifically denied, it has to function as a court of original criminal jurisdiction not being hide-bound by terminological status description of Magistrate or a Court of Sessions. Under the Code it will enjoy all the

powers which a court of original criminal jurisdiction enjoys, save and except the ones specifically denied.”

This court also in Criminal Writ Petition No. 1166 of 2010 in the case of ***The Superintendent of Police, Pune v. Satish s/o. Sampatlal Surana and Ors.*** [2015 (4) Bom.C.R. (Cri.) 587, has adopted above view.

Consequently for above reasons, the objection raised before this court about competence of learned Additional Sessions Judge to entertain the complaint, has no force and is required to be discarded.

11. As regards to submission of Non-application of mind and passing the order in mechanical manner is concerned, in the considered opinion of this court, learned court below has not at all taken cognizance of complaint and merely directions to investigate and submit report, are issued. In the considered opinion of this court, it is a pre-cognizance stage order, as neither complainant is examined nor any statement of witnesses are taken into account, no process is issued and no further steps, as contemplated under law for taking action, have been taken by the learned court below.

12. As to what amounts to taking cognizance is dealt and clarified in series of judicial pronouncements viz. ***Devarapalli Lakshminarayana Reddy v. V. Narayana Reddy***, [(1976) 3 SCC 252]; ***Mahadeo v. State of Maharashtra***, [(2013) 5 SCC 615]; ***Ramdev Food Products Private Limited v. State of Gujarat***, [(2015) 6 SCC 439]; ***Rameshbhai Pandurao Hedau v. State of Gujarat***, [(2010) 2 SCC (Cri.) 801], wherein the scheme of 156(3) Cr.P.C. (new provision section 175(3) B.N.S.S.), has been discussed.

13. The ratio i.e. carved out is that, when a Magistrate does not take cognizance and does not find it necessary to postpone the issue of process and rather finds the case made out to proceed forthwith, directions under this provision can be issued. Here, learned trial court has merely applied his mind to the nature of allegation and has thought it fit to ascertain whether there is truth in the said accusation and therefore, directions to investigate has been issued.

14. In the case of ***Tula Ram and Ors. v. Kishore Singh***, AIR 1977 SC 2401, it is clarified as to what is meant by 'taking cognizance' and it was held that taking cognizance means judicial application of mind by the Magistrate to the facts mentioned in the complaints, with a view to take further action. At such pre-

cognizance stage, the sole purpose is to determine whether there is sufficient ground for taking judicial notices with a view to initiate further proceedings.

15. Here, learned Special Court, while exercising the original jurisdiction of a Magistrate, had two courses open to it, i.e. firstly either to direct registration and investigation as contemplated under the old section 156(3) Cr.P.C. (new section 175(3) B.N.S.S.) and secondly, to take cognizance as contemplated under section 200 Cr.P.C. onwards. Here, as stated above, learned Special Judge, has not verified the complaints nor statements of any witnesses are visited. On the contrary, in view of the nature of allegations, learned Special Judge thought it fit to get the matter investigated through agency like police, who are bestowed with plenary powers to investigate.

For above reasons, no fault can be found in the directions issued by learned Special Judge for making investigation done.

16. As regards to failure of complainant to implead company is concerned, it is purely in the domain of learned trial court to take a call whether company is at all a necessary party or not. Here, allegations are *prima facie* directed against named accused and for inducing complainant to invest and there are allegation of

deceiving/cheating complainant by not returning their amounts as agreed.

The ruling relied by learned counsel are on the point of settled legal position, of which there is no dispute, but facts in those cases are distinct than the one in the case in hand.

17. For all above reasons, this court finds no merit, irregularity or illegality on the part of Special Judge in invoking powers under section 175(3) of B.N.N.S. directing investigation at the hands of police. For above reasons, no case being made out to interfere, I proceed to pass the following order :-

ORDER

Both Criminal Revision Applications stand dismissed.

(ABHAY S. WAGHWASE, J.)