



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.675 OF 2021

- 1 Ishrat Ilahi Khan s/o Fazal Ilahi Khan,
Age 65 yrs., Occ. Nil,
- 2 Naveed Ilahi Khan s/o Nusrat Ilahi Khan,
Age 45 yrs, Occ. Business,
- 3 Dr. Asna Rabbab w/o Abdul Qadar Khan,
Age 36 yrs., Occ. Medical Practitioner,
- 4 Nusrat Ilahi Khan s/o Fazal Ilahi Khan,
Age 65 yrs., Occ. Nil,

All are r/o Plot No.2, Nahid Manzil,
Central Naka Road, Near VIP Function Hall,
Jaswantpura, Aurangabad.

... Applicants

... Versus ...

- 1 The State of Maharashtra
Through Police Station, Jinsi,
Aurangabad.
- 2 Mohammad Azhar Rahimuddin Qureshi,
Age 46 yrs., Occ. Software Engineer,
R/o House No. 1-13-43, Near Nehru Bhavan,
Kabadipura, Aurangabad.

... Respondents

...

Mr. Shaikh Mazhar A. Jahagirdar, Advocate for applicants

Mr. S.A. Gaikwad, APP for respondent No.1

Mr. P.M. Salunke, Advocate for respondent No.2

...

WITH**CRIMINAL APPLICATION NO.3090 OF 2023****IN****CRIMINAL APPLICATION NO.675 OF 2021**

Naveed Ilahi Khan s/o Nusrat Ilahi Khan,
Age 45 yrs, Occ. Business,
R/o Plot No.2, Nahid Manzil,
Central Naka Road, Near VIP Function Hall,
Jaswantpura, Aurangabad.

... **Applicant**... **Versus** ...

- 1 The State of Maharashtra
Through Police Station Officer,
Economic Offences Wing,
Aurangabad City Police Station,
Aurangabad.
- 2 Mohammad Azhar Rahimuddin Qureshi,
Age 46 yrs., Occ. Software Engineer,
R/o House No. 1-13-43, Near Nehru Bhavan,
Kabadipura, Aurangabad.

... **Respondents**

...

Mr. Shaikh Mazhar A. Jahagirdar, Advocate for applicant

Mr. S.A. Gaikwad, APP for respondent No.1

Mr. P.M. Salunke, Advocate for respondent No.2

...

WITH

CRIMINAL APPLICATION NO.3824 OF 2024

Khan Abdul Kadar s/o Nusrat Ilahi Khan,
Age 38 yrs., Occ. Business,
R/o Plot No.2, Jaswantpura,
Central Naka Road, Aurangabad.

... **Applicant**

... **Versus** ...

- 1 The State of Maharashtra
Through Police Station Officer,
Police Station, Jinsi, Aurangabad City,
Dist. Aurangabad.
- 2 Mohammad Azhar Rahimuddin Qureshi,
Age 46 yrs., Occ. Software Engineer,
R/o House No. 1-13-43, Near Nehru Bhavan,
Kabadipura, Aurangabad.

... **Respondents**

...

Mr. Shaikh Mazhar A. Jahagirdar, Advocate for applicant

Mr. S.A. Gaikwad, APP for respondent No.1

Mr. P.M. Salunke, Advocate for respondent No.2

...

**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

RESERVED ON : 04th FEBRUARY, 2025

PRONOUNCED ON : 21st APRIL, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 **Criminal Application No.675 of 2021** and **Criminal Application No.3824 of 2024** have been filed initially for quashment of First Information Report vide Crime No.34/2021 dated 09.02.2021 registered with Jinsi Police Station, Aurangabad, which was then transferred to Economic Offences Wing, Aurangabad and later on by way of amendment after filing of charge sheet for quashing proceedings in Special Case No.184/2021 pending before the designated Court under MPID/Additional Sessions Judge, Aurangabad, for the offence punishable under Sections 406, 420, 120-B read with Section 34 of the Indian Penal Code, 1860 and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999. **Criminal Application No.3090 of 2023** has been filed for quashment of notice dated 06.04.2021 issued to Talathi, Padegaon and notice dated 19.01.2021 issued to Assistant Sub-Registrar, Class-II, Aurangabad No.03 by respondent No.1.

2 Heard learned Advocate Mr. Shaikh Mazhar A. Jahagirdar for applicants, learned APP Mr. S.A. Gaikwad for respondent No.1 and learned Advocate Mr. P.M. Salunke for respondent No.2 in all matters.

3 The affidavit-in-reply has been filed on behalf of respondent

No.2 – informant Mohammad Azhar Rahimuddin Qureshi and along with his affidavit a compromise deed, that has taken place between him, some witnesses and applicants, has been produced. It will not be out of place to mention here that this Court has got the said compromise deed verified from Registrar (Judicial) and the report has been submitted on 30.09.2024 that applicant No.1 in two matters and other applicants in one matter as well as respondent No.2 in all applications were present before him. Important point to be noted is that it appears that other witnesses were never produced before learned Registrar (Judicial). Other witnesses, who are party to compromise deed, are in fact, victims and, therefore, now, it is the question before this Court, as to whether upon such compromise whether First Information Report and charge sheet can be quashed and set aside.

4 Learned APP relies on the Three Judge Bench decision of Hon'ble Supreme Court in State of **Madhya Pradesh vs. Laxmi Narayan** and others [(2019) 5 SCC 688], wherein Hon'ble Supreme Court has given guidelines as to when quashment of non-compoundable offences is permissible in view of compromise. It has been observed that -

“Quashing would depend upon facts and circumstances of each case. The Court has to apply mind to (i) Whether crime against society or against individual alone and kind of dispute, whether civil or criminal, (ii) Seriousness, nature and category/kind of crime/offence

and how committed, (iii) Whether offence under special statute, (iv) Stage of proceedings, (v) Conduct and antecedents of accused, whether accused absconding, why absconding and how he managed to compromise with complainant. The criminal proceedings arising out of commercial transactions or matrimonial or family disputes when having overwhelmingly and predominantly civil character may be quashed when parties have resolved entire dispute amongst themselves.”

It is also observed that -

“Such power cannot be used in respect of heinous and serious offences of mental depravity or offences like murder, rape and dacoity, etc. Such offences are not private in nature and have a serious impact on society.”

4.1 Learned APP also relies on the Division Bench decision of Hon’ble Punjab and Haryana High Court at Chandigarh in **Rakesh Das vs. State of Haryana and another** in CRM-M No.48043 of 2023 with companion matters decided on 12.11.2024, which was in fact, a decision upon reference and then it is held in case when the victim is allowed to have piecemeal settlements, it is observed that the High Court should exercise self-restraint in receiving piecemeal settlements, and, also subsequently in making piecemeal orders of composition.

5 Learned APP submits that as per First Information Report and

the investigation there are also certain other victims of the scheme that was introduced by applicants and then they have not received whatever was promised for their investment. Therefore, when now, the applicants and respondent No.2 are coming before the Court that applicants have now paid the entire amount what was due to informant and about 11 other persons, then it would be unjust for other victims.

6 Learned Advocate for applicants then points out that as per First Information Report and charge sheet in all 14 witnesses and informant have been cheated and their amount has been misappropriated. Now, there is compromise with everybody. Under the said circumstance, it would be unjust to ask applicants to face the trial.

7 The first and the foremost fact to be noted is that as per the prosecution story the informant and 14 witnesses were promised by accused persons that their amount which they would be taking would be invested in share market and they would be given 8 to 14 % returns and they invited those persons to deposit the amount in the company owned by accused persons i.e. N.K. Multiservices and Galaxy Enterprises. The document in the nature of partnership agreement was executed. The amount that was received from informant was Rs.28,00,000/- and from the witnesses it was Rs.1,15,00,000/-. Thus, the amount to which these persons were duped is

stated to be Rs.1,43,00,000/-. Now, as per the compromise the parties have settled their dispute for Rs.80,00,000/- only and in fact, they had then stated that the amount of party No.2 i.e. 12 persons with party No.1 i.e. accused was Rs.1,54,00,000/-. Whether the said amount which has been received by informant and those persons as per the compromise is said to be beneficial to them is not the point in which this Court is interested, but as per the said compromise it is stated that even in respect of that Rs.80,00,000/-, Rs.30,00,000/- is given by way of cash and for rest of the amount of Rs.50,00,000/- they had agreed to give three flats in a building by name 'Hiranya Enclave' in property Gat No.22, Satara in Aurangabad, for which again one Karim Khan Pathan, who is not the party to the document, is stated to have given assurance. The said land is in possession of said Karim Khan Pathan. Though as aforesaid, whether the compromise is proper or not, may not be a subject-matter here, but still when it is a matter under M.P.I.D. Act, the said fact is also required to be considered. As to whether the said compromise is practicable and secondly why a third party should have been involved in the matter, would be the question. The said compromise, on the basis of which applicants want First Information Report and charge sheet to be quashed and set aside, is not a compromise which can be accepted and further when the prosecution story is that in all 15 persons (including informant) are the persons who have been duped, then compromise with 12

persons (including informant) cannot be accepted.

8 The learned APP also points out that as against applicant Ishrat Ilahi Khan s/o Fazal Ilahi Khan, Dr. Asna Rabbab w/o Abdul Qadar Ilahi Khan and Shujat Ilahi s/o Ishrat Ilahi Khan the charge sheet has been filed under Section 299 of the Code of Criminal Procedure stating that they are absconding. Therefore, as against the absconding persons this Court will not exercise its powers in view of the decision in **Laxmi Narayan** (supra).

9 One more aspect that has been brought on record that State Government had taken steps under Sections 3 and 4 of the M.P.I.D. Act and attached and seized the immovable property of Gat No.62 to the extent of 59.78 R situated at village Padegaon, Tq. & Dist. Aurangabad. It is stated to be of the ownership of accused No.1 Abdul Qadar Khan s/o Nusrat Ilahi Khan and accused Naveed Ilahi Khan. The notification to that effect was promulgated on 17.08.2023. It appears that now in order to get rid of or to outcome the effects of further proceedings such kind of settlement has been arrived at. However, we are of the considered view that it is not in favour of investors/depositors and, therefore, First Information Report and proceedings cannot be quashed on the basis of compromise. On the merits also there is *prima facie* case. Hence, following order.

ORDER

- i) Criminal Application No.675 of 2021 and Criminal Application No.3824 of 2024 stand rejected.
- ii) In view of disposal of Criminal Application No.675 of 2021, Criminal Application No.3090 of 2023 also stands disposed of.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

agd