Ashish

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 246 OF 2024

Amit Suresh Thakkar … Applicant
V/s.
State of Maharashtra, through Dy. S.P, EOW, CID, Pune … Respondent

Mr. Amolkumar Jadahv, for the applicant.
Mr. Sagar Agarkar, APP for State.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 1, 2025

P.C.:

1. By this application, the applicant – original accused no.11 has challenged the order passed by the learned Additional Sessions Judge, Pune below Exhibit 71 in Special (MPID) Case No. 9 of 2018, whereby the application filed under Section 227 of the Code of Criminal Procedure, 1973, came to be rejected.

2. The prosecution case, in brief, is that the main accused Mahesh Motewar, along with his wife Leena Motewar and other co-accused, formed a company named Gurukrupa Dairy Pvt. Ltd. in the year 2002. In the year 2006, the name of the company was changed to Samruddha Jeevan Foods India Ltd. It is alleged that the Directors induced large number of investors to invest money by giving assurances of high returns, in violation of the guidelines and regulations framed by the Reserve Bank of India. The company allegedly made widespread advertisements through the internet and pamphlets to attract investors.

3. Since 2011, several complaints were lodged before SEBI, Mumbai, regarding the activities of the said company. On 31 October 2013, SEBI passed an order restraining the Directors of the company from accepting deposits or disposing of assets. It is further alleged that despite the said order, accused Mahesh Motewar and others formed Samruddha Jeevan Multi State Multi Purpose Co-operative Society. The company Samruddha Jeevan Foods India Ltd. was thereafter handed over to this newly created Society. The Society, which had a branch at Shivajinagar, Pune, continued to collect deposits from the public, including the complainant and his wife, promising returns at the rate of 11.5% to 12%. On failing to refund such deposits, a Liquidator came to be appointed. The Liquidator lodged the complaint leading to the registration of the present case.

4. The applicant herein was the Director of Kirtol Marketing Pvt. Ltd., which is stated to be a sister concern of the Samruddha Jeevan Group. He was also employed as a Facility Manager in Samruddha Jeevan Foods India Ltd. The prosecution case further alleges that the applicant attended meetings of the Board of Directors and participated in decisions which ultimately led to misappropriation of the investors' funds.

5. The prosecution has further alleged that the Samruddha Jeevan Group has cheated investors across the country to the tune of more than Rs. 4,725 crores. In particular, between 1 January

2013 and 10 August 2015, the present applicant is alleged to have withdrawn Rs. 25,79,137. Out of this amount, the applicant is said to have accounted for Rs. 13,46,971, while the balance amount of Rs. 12,32,166 remains unexplained. The said amount, according to the prosecution, was misappropriated by the applicant.

6. The learned counsel for the applicant submitted that the rejection of the application under Section 227 Cr.P.C. by the Sessions Court is erroneous. He argued that the essential ingredients of the offences alleged against the applicant are not satisfied. He further submitted that the finding of the Sessions Court, holding that the applicant failed to account for Rs. 12,32,166, is contrary to the record. According to him, the entire sum of Rs. 25,79,137 was withdrawn in the course of his official duties as Facility Manager for arranging meetings of the Managing Committee and related purposes. At the time of his resignation, he had informed the management that the balance amount had been duly accounted for. Therefore, he contended that no prima facie case is made out against the applicant and the Sessions Court ought to have discharged him under Section 227 Cr.P.C.

7. Per contra, the learned APP submitted that the Sessions Court has rightly rejected the discharge application. He pointed out that the applicant admittedly withdrew Rs. 25,79,137 but has failed to give a proper account of Rs. 12,32,166. This fact, coupled with the material on record, shows his involvement. The ledger reports relied upon by the Sessions Court indicate that amounts were transferred from the Society to Kirtol Marketing Pvt. Ltd., in which the applicant was a Director. The Forensic Audit Report also records that Kirtol Marketing Pvt. Ltd., promoted by the applicant, had received funds from the Society in question. Thus, the complicity of the applicant is prima facie established. The learned APP placed reliance on the principles laid down by the Supreme Court in *Union of India v. Prafull Kumar Samal (1979) 3 SCC 4*, where it was held that if the Court, upon considering the record, finds strong suspicion that the accused has committed an offence, the matter must proceed to trial. Therefore, according to the learned APP, there is sufficient material to proceed against the applicant, and the order passed by the Sessions Court does not call for interference.

8. I have considered the submissions advanced by the learned counsel for the applicant and the learned APP. I have perused the material placed on record, the order of the Sessions Court, the ledger entries, and the Forensic Audit Report.

9. The scope of Section 227 of the Code of Criminal Procedure is well settled. At this stage, the Court is not expected to weigh the evidence as if conducting a trial. The Court is required only to see whether there exists sufficient ground for presuming that the accused has committed the offence. If, on consideration of the record, there is ground for strong suspicion against the accused, then discharge cannot be granted. The law on this aspect has been explained by the Supreme Court in *Prafull Kumar Samal (supra)* and consistently followed thereafter.

10. In the present case, the material on record indicates that the applicant had withdrawn Rs. 25,79,137. Out of this, the applicant claims to have accounted for Rs. 13,46,971. However, there is no satisfactory explanation forthcoming with respect to the balance amount of Rs. 12,32,166. The ledger report relied upon by the prosecution prima facie shows that funds of the Society were transferred to Kirtol Marketing Pvt. Ltd., where the applicant was Director. The Forensic Audit Report also records that Kirtol Marketing Pvt. Ltd. received funds from the Society. These circumstances give rise to strong suspicion about the role of the applicant in the diversion and misappropriation of investors' funds.

11. The defence raised by the applicant that the withdrawals were made in the course of employment as Facility Manager and that the amount was duly accounted for, cannot be accepted at this stage. These are matters of defence which can be tested only during trial. At the stage of discharge, such explanations cannot displace the prima facie material indicating his involvement.

12. The allegations in the present case are of large-scale fraud running into thousands of crores, involving inducement of common citizens to part with their savings on false promises of high returns. The applicant, being a Director of a sister concern and also associated with the management, cannot escape responsibility when prima facie material shows that he was a beneficiary of the diverted funds.

13. In view of the settled law and the material on record, I am satisfied that there are sufficient grounds for presuming that the applicant has committed the offences alleged. Therefore, the order of the Sessions Court rejecting the application for discharge does not suffer from any legal infirmity.

14. Revision application is dismissed of.

(AMIT BORKAR, J.)