

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1593 OF 2025
IN
CRIMINAL APPEAL NO. 550 OF 2025**

Shivaji Tukaram Dhamdhere And Anr. ... Applicants/
Appellants

versus

The State of Maharashtra Respondent

**WITH
INTERIM APPLICATION NO. 4951 OF 2024
IN
CRIMINAL APPEAL NO. 1321 OF 2024
WITH
INTERIM APPLICATION NO. 4952 OF 2024
IN
CRIMINAL APPEAL NO. 1321 OF 2024**

Mandarani Shivaji Dhamdhere And Anr. ... Applicants/
Appellants

versus

The State of Maharashtra Respondent

.....
Ms. Anjali Kondvilkar i/b. Ms. Manisha Devkar, Advocate for the
Appellants in Cri.Appeal/1154/2023.
Mr. Ashok S.Gawai, APP for the State.
Mr. Sachin Salunke, Advocate for Appellant in Cri.Appeal/1320/2024; Cri.
Appeal/1321/2024 and Cri.Appeal/550/2025.

CORAM : R. M. JOSHI, J.

RESERVED ON : 27th NOVEMBER, 2025.

PRONOUNCED ON : 4th DECEMBER, 2025.

P.C. :

1. In these Interim Applications convicts seek stay to the order of the imposition of fine and default sentence. It is admitted fact that the substantive sentence has already been undergone by the appellants/ convicts. According to the learned counsel for the appellants the impugned Judgment and Award passed to be stayed and the appellants shall be directed to be released from jail forthwith.

2. Learned counsel for the appellants takes exception to the impugned Judgment and Order in respect of the fine imposed against the appellants essentially on the ground that Designated Court under the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (hereinafter referred to as “the MPID Act”) is deemed to be a Magistrate. To support this submission reliance is placed on the judgment of the Division Bench of this Court in the case of *Javeed Khan s/o. Ajij Khan Vs. The State of Maharashtra* passed in Criminal Appeal No. 702 of 23, wherein it is held that the Designated Court shall be deemed to be a Magistrate. According to her a Magistrate cannot impose fine of more than Rs.50,000/-, however in the instant case, the Designated Court has imposed fine of Rs.15,00,000/- for the offence punishable under Section 420 of Indian Penal Code, 1860 (for short “IPC) and since it is not within the powers of Magistrate to impose any fine beyond Rs. 50,000/-, the

order impugned is illegal and therefore deserves to be stayed. Secondly, it is argued that the trial is conducted against the appellant are bad-in-law for the reason that all chargesheets ought to have been tried in one trial by considering the first chargesheet to be the principal chargesheet and subsequent chargesheet to be the supplementary chargesheets. To support this submission she placed reliance on the judgment of Co-ordinate Bench in the case of ***Mr. Ameet Savant Vs. The State of Goa and Ors.*** in Criminal Writ Petition No.69 of 2025 with Criminal Writ Petition No. 68 of 2025 with Criminal Writ Petition No. 70 of 2025 dated 30.09.2025 passed therein. He also took support of the judgment of the Patna High Court in the case of ***Pushpraj Bajaj Vs. The Union of India and Anr.*** in Criminal Revision No. 685 of 2025 and the order passed by the Division Bench of this Court in Criminal Writ Petition No. 2421 of 2023. It is argued that when a law requires a particular thing to be done in a particular manner it has to be done in that manner alone or not at all. In support of this submission, reference is made to the judgment of Hon'ble Supreme Court in the case of ***Shri Khereshwar Mahadev Va Dauji Maharaj Samiti, Aligarh V/s. State of Uttar Pradesh*** passed in Criminal Appeal No.s @ SLP (CRL) Nos. 13258-13259 of 2024.

3. Learned APP opposed the said contention by referring to the provisions of Code of Criminal Procedure (for short "Cr.P.C."). It is his

submission that there is no any limitation prescribed for a Session Judge to impose the fine amount. It is his submission that in the instant case, the fine has been imposed for the offence under the MPID Act of Rs.1,00,000/- which is in accordance with the provisions of the said Act. It is submitted that the offences under IPC are tried by the Sessions Judge and therefore the purpose of imposition of fine in respect of the said offences, the embargo created by the Cr.P.C. to a Magistrate would not apply. In this regard, reference is made to Section 29 to submit that the limitation for the imposition of fine on a Magistrate is not applicable to Chief Judicial Magistrate. It is submitted that in view of the said provision, it cannot be said that the Sessions Judge has no power to impose fine beyond Rs.50,000/-.

4. At the outset, this Court would like to record that the objection with regard to the challenge to the conduct of the trial in respect of cases in hand, it is pertinent to note that the trials in those offences are concluded without accused raising any objection thereto. In so far as the other pending trials are concerned, this Court is not seized with the said matters. This Court is entertaining appeals preferred by the appellants /convicts against the judgments and orders passed in case numbers 138 of 2020, 1 of 2019 and 2 of 2019. At this stage, therefore, it would not be open for this Court to go into the issue with regard to the challenge to the trial and

record any finding thereon. This issue if raised can be considered at the time of hearing of the appeal finally.

5. At this stage, however, it is necessary to take into consideration as to whether there is any substance in the contention sought to be raised by the Appellant with regard to the reality or otherwise of the sentence substantive as well as fine imposed against the appellants by the Designated Court. From the impugned Judgments and Orders it is clear that for the purpose of offence punishable under Section 3 of MPID Act, the appellant/ accused are handed over with the imprisonment of 6 years and fine of Rs. 1 lakh each. As far as the said amount of fine as well as substantive sentence, in view of the provisions of MPID Act the Designated Court is empowered to impose punishment to that extent. With regard to the offence punishable under Section 420 of IPC, the Designated Court has sentenced the accused/ convict to suffer imprisonment of 7 years above of Rs. 15 lakh each. Now question arises as to whether it is open for the Designated Court to impose the fine of more than Rs. 50,000/-.

6. The Judgment of the Division Bench of this Court in case of ***Javeed Khan*** (supra) indicates that the Designated Court shall be deemed to be a Magistrate for the purpose of the provisions of the MPID Act. As the trial of the case under the MPID Act has to follow the procedure laid down for the trial of warrant cases by Magistrate and not that of trial of a Sessions case.

7. At this stage, it would be relevant to take note of the provisions of MPID Act and the provisions of Cr.P.C. it would govern the cases /trials under the said Act. Section 13 of MPID Act and Section 29 of Cr.P.C. reads thus :

(MPID Act)

“13. Procedure and powers of Designated Court regarding offences.-

(1) The Designated Court may take cognizance of the offence without the accused being committed to it for trial and, in trying the accused person, shall follow the procedure prescribed in the Code of Criminal Procedure, 1973 (2 of 1974), for the trial of warrant cases by Magistrates.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall so far as may be, apply to the proceedings before a Designated Court and for the purposes of the provisions, a Designated Court shall be deemed to be a Magistrate.”

“29. (Cr.P.C.) Sentences which Magistrates may pass.

(1) The Court of a Chief Judicial Magistrate may pass any sentence authorised by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding seven years.

(2) The Court of a Magistrate of the first class may pass a sentence of imprisonment for a term not exceeding three years, or of fine not exceeding [ten thousand rupees], or of both.

(3) The Court of a Magistrate of the second class may pass a sentence of imprisonment for a term not exceeding one year, or of fine not exceeding [five thousand rupees], or of both.

(4) The Court of a Chief Metropolitan Magistrate shall have the powers of the Court of a Chief Judicial Magistrate and that of a Metropolitan Magistrate, the powers of the Court of a Magistrate of the first class.

State Amendment [Maharashtra]. In its application to the State of Maharashtra, in section 29,-

(a) in sub-section (2), for the words "ten thousand rupees", substitute "fifty thousand rupees";

(b) in sub-section (3), for the words "five thousand rupees", substitute "ten thousand rupees". Maharashtra Act 27 of 2007, S. 2 (w.e.f. 1-12-2007)."

8. Section 13 of MPID Act therefore clearly requires the procedure under the Cr.P.C. to be followed for the purpose of trial under the said Act. The procedure as contemplated for trying a warrant case before the Magistrate will have to be followed. Now question arises as to what sentence the Designated Court can impose against a convict. As far as offences under the MPID Act, there is a specific provision which deals with the substantive sentence so also the amount of fine which could be imposed by the Designated Court.

9. In so far as the offences under the IPC is concerned, it would be necessary to take note of Section 29 of Cr.P.C. as reproduced herein above. This provision creates an embargo / limitation on Magistrate to pass a sentence of fine Rs. 50,000/-. There is however no such embargo to a Chief Judicial Magistrate as it is open for the Chief Judicial Magistrate to impose any amount of fine but substantive sentence could be except for imprisonment of life or death or the term exceeding 7 years. It is thus clear that in case any offence is tried by a Chief Judicial Magistrate, the embargo with regard to the limitation of imposition of fine would not apply. Thus it is clear that the limitation for imposition of fine is qua the powers vested in the court and not the procedure of trial to be followed. Both Chief Judicial

Magistrate and any other Magistrate would follow same procedure for trial as prescribed by Cr.P.C. However, they can impose different fine in respect of such trial on conviction of accused. In this regard, it is pertinent to note that Sessions Court has no such limitation for imposition of fine. It is thus open for a Sessions Judge to impose any amount of fine on the accused on a proved charge, except in cases wherein the outer limit for amount of fine has been prescribed by concerned provision. It is thus clear that even if the Designated Court which is a Court of Sessions, is required to follow the procedure as contemplated for a trial of a warrant case, there cannot be any limitation for imposition of fine by such Sessions Judge as a Designated Judge under the provisions of MPID Act. This Court, therefore, finds no substance in the contention of the learned counsel for the appellant that the order of imposition of fine is on the face of it illegal and hence deserves to be stayed.

10. Now coming to the quantum of fine imposed by the Designated Court, it is material to take note of the findings recorded by the Designated Court in respect of the offences punishable under Section 3 of MPID Act. Here in this case, it is proved by the prosecution before the Trial court that the appellants have defrauded huge amount and having regard to the said amount, the imposition of fine of Rs.15 lakh is not unreasonable or unjustified. This Court therefore finds no reason or justification to hold

that even otherwise the order of imposition of fine would not be sustainable.

11. This Court therefore has no hesitation to prima facie hold that the Judgment and Order passed by the Designated Court in respect of the substantive sentence so also the sentence of fine is just legal and proper and requires no interference. Consequently, the application for suspension of sentence and enlargement of the appellants on bail deserves to be rejected and accordingly stands rejected.

12. It is clarified that the observations made herein above are restricted to the decision of the Interim Applications and shall not come in way of both the sides while hearing the Appeals finally.

(R. M. JOSHI, J.)