

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 4336 OF 2025

Mrs.Elizabeth Lou Iler ... Petitioner
versus
The State of Maharashtra & Ors. ... Respondents

...

Mr.Himanshu Maratkar with Mr.Mayur Mohite for the Petitioner.
Mr.S.V.Gavand, Addl. PP for the Respondent -State.
Mr.Sachin Khondre, PI, D.N.Nagar Police Station, Mumbai is present.

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**CORAM : RAVINDRA V. GHUGE &
GAUTAM A. ANKHAD, JJ.**

DATE : 13th August, 2025

P.C.:-

1. We have heard the learned Advocate for the Petitioner and the learned Addl.PP. With their assistance, we have perused the Petition paper-book.

2. After perusing the contents of the First Information Report (FIR) No. 0811 of 2025, registered on 8th July, 2025 with the D.N. Nagar Police Station, Andheri, more particularly the contents of the first paragraph on internal page no. 7 of the FIR, we are of the *prima facie* view that Section 409 of the Indian Penal Code is attracted.

3. The learned Addl. PP submits, on instructions from Shri Sachin Khondre, PI, that a communication to the learned Magistrate would be immediately issued within two days indicating that Section 409 of the IPC is being added to the FIR.

4. We are, however, shocked by the conduct of the Investigating Officer, who, on the one hand, has registered the FIR No. 0811 of 2025 on 8th July, 2025 and narrated the contents of the complaint dated 3rd March, 2025 therein. *Prima facie*, the contents of the complaint, more particularly paragraph Nos. 16, 17, 18 and 19 clearly indicate a deceptive role played by Mr. Sainath Gharse, Senior Manager, Kotak Mahindra Bank. He made a call to the Petitioner and convinced her that depositing money with the Accused, Radhey Waghole, involved no risk, as he is his colleague and there is nothing to worry about such an investment. Several further serious allegations have been made against Mr. Sainath Gharse. However, he has not even been added as an Accused in the FIR.

5. The learned Addl. PP, instructed by Mr. Sachin Khondre, Investigating Officer dealing with the matter, stated that the IO took a legal

advice of their Law Officer, who instructed him that there is no need to invoke Section 409 of the IPC. The zone DCP has concurred with the said opinion. Hence, there is no mention of the name of Mr.Sainath Gharse as an Accused.

6. Our judicial conscience is shocked. When four long paragraphs of the complaint clearly indicate the role of Mr. Sainath Gharse, yet, he has not been added as an accused.

7. The learned Addl.PP submits that, while adding Section 409 of the IPC, Mr.Sainath Gharse would also be added as an Accused in the FIR. This exercise would be completed, within 3 days.

8. In view of the aforestated statements, **this Writ Petition is disposed off.**

9. Compliance of the above directions shall be reported to the Court. S.O. to 2nd September, 2025.

(GAUTAM A. ANKHAD, J.)

(RAVINDRA V. GHUGE, J.)