

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 705 OF 2025
WITH
CRIMINAL APPEAL NO.707 OF 2025
WITH
CRIMINAL APPEAL NO.706 OF 2025

Rajesh Narendra Mewawalla and ors. .. Appellants
Versus
The State of Maharashtra and anr .. Respondents
...

Adv. PC Contractor a/w Adv. Hitekshi Bhanushali, Adv. Rashmin Dham for the Appellants.
Adv. Dhrutiman Joshi for Respondent.
Mr. S.R. Agarkar, APP for the State.

CORAM: BHARATI DANGRE &
SHYAM C. CHANDAK, JJ.
DATED : 15th DECEMBER, 2025

P.C:-

1. The three appeals are filed by the Appellants under Section 11 of the Maharashtra Protection of Interest of Depositors (in Financial establishments) Act, 1999, (MPID Act) raising a challenge to three distinct orders passed by Designated Court, thereby directing the Investigating Officer to process attachment of the movable and immovable property and for sending it to the Home Department for notifying it under Section 4 of the Act and to report compliance.
2. We have heard the learned counsel for the appellants and the learned counsel representing the investors – respondents as well as Mr. Agarkar, learned APP for the State.

3. FIR No. 614 of 2018 is registered under Section 406, 420 r/w 34 of IPC and when the charge-sheet was filed, it also invoked Section 3 of the MPID Act, against the appellants as well as the three companies.

The complainant filed an application before the MPID Court, to direct the prosecution to take steps in terms of Section 3 and 4 of the Act. Accordingly, the MPID Court directed to file report regarding attachment of property under Section 4 of the Act.

The impugned order passed, in Appeal No.705 of 2025, issued the following direction.

“IO is directed to verify the title of immovable properties of accused person and if found to be in their name then same be provisional attached whereafter the proposal be sent to Home Department for attachment u/s 4 of MPID Act.

Adjd to 28.11.2024 for framing charge/compliance.”

In Appeal No. 707 of 2025, the MPID Court passed the following order :-

“Investigating Officer of Mulund Police Station is directed to identify movable and immovable properties of accused and to dispatch proposal for attachment for those properties to home Department, State of Maharashtra for notifying attachment u/s 4 of MPID Act and to report compliance within 1 week.”

Similarly in the third Appeal No. 706 of 2025 the order direct the Investigating Officer to identify movable and immovable property and to dispatch proposal for attachment of the properties to Home Department for notifying attachment under Section 4 and to report compliance.

4. We understand the anxiety of the complainant to initiate the process under the MPID Act, for which an offence is registered. However, the Special Judge has completely misconstrued the provisions of the Act, as he has failed to consider that it is the power of the State Government to direct attachment of properties on default of return of deposits, as contemplated under Section 4 and it is only when the government is satisfied that any financial establishment has failed to return the deposit after maturity or on demand by the depositors, or to pay interest or other assured benefit, or to provide the services promised against such deposit, and the Government has reason to believe that such financial establishment is acting in calculated manner detrimental, to the interest of depositors with an intension to defraud them and when it is not likely to return the deposits of other benefits assured, then the government may in order to protect the interest of depositors of such financial establishment, issue an order by publishing it in the Official Gazette, attaching the money or other properties believed to have been acquired by such financial establishment, either in its own name or in the name of any other person from out of the deposits, collected by it. If it transpires that such money or other property is not available for attachment or is not sufficient for re-payment of deposits, then the government is empowered to attach such property of the financial establishment or promoter, director, partner or manager as the government deems it fit.

It is upon publication of this order under sub-section (1), of Section 4, the properties and assets of the financial establishment and the persons mentioned therein shall forthwith vest in the competent authority appointed by the government, pending further order from

designated court.

In the wake of this scheme, the power being of the State Government to effect attachment, the impugned order which direct the Investigating Officer to identify the properties and dispatch proposal for attachment of the properties to Home Department, is not in consonance with Section 4 of the Act, as a result of which the impugned orders are quashed and set aside.

5. In the wake of the circumstances pursuant to the registration of the offence, it is for the State Government to take steps to issue a notification, pursuant to which the MPID Court would be in a position to regulate the proceedings before it.

With this clarification, the appeals are allowed by quashing and setting aside the impugned order.

We expect the State Government to take expeditious steps for attachment of the properties strictly in consonance to Section 4 of the MPID Act.

(SHYAM C. CHANDAK,J)

(BHARATI DANGRE, J.)