IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1036 OF 2025

Mr. Amit Prakash Masalia & Ors. …. Appellants
V/s.
The State of Maharashtra
Through Competent Authority
Dy. Collector, Mumbai & Anr. …. Respondents

Mr. Piyush Hushing, for the Appellants.
Ms. Supriya Kak, APP for the Respondent-State.
API-Vinayak Desure, MPID, Unit-8, EOW, Mumbai, present.

CORAM: BHARATI DANGRE, &
SHYAM C. CHANDAK, JJ.

DATED : 11th NOVEMBER, 2025.

P. C. :-

1) The present Appeal is filed under Section 11 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 being aggrieved by the Order below Exh.1-B/1 in MPID Special Case No.10008 of 2018, on an Application filed under Section 5(3) of the MPID Act annexed with an Affidavit filed by the Deputy Collector cum Competent Authority.

This Order necessarily has to be read with an order passed below Exh.53 and the impugned Order has allowed the Application partly as the Court directed release of the immovable property i.e. Flat No.203

owned by the Accused No.5 and his wife and refrained itself from making the attachment absolute but by the impugned Order, the Investigating Officer is directed to transfer the amount of Rs.19,59,751/- along with interest, if any, lying in 28 Bank Accounts mentioned in the schedule of Notification dated 08.09.2021, into the newly opened Bank Account and invest the same in Fixed Deposit on auto-renewal basis. Apart from this, the Order also make absolute the attachment of 2,63,694 shares standing in the name of the Accused Nos.1, 3, 4 and 7 and the Competent Authority is directed to sell the shares as per the mechanism prescribed by SEBI and report the compliance. It is this Order which is challenged by the four Appellants and we have heard the learned Counsel for the Appellants and perused the impugned Order.

2) By Notification published on 08/09/2021, pursuant to the complaints having been received from number of depositors against Chairman / Directors & Alliance of (1) Athena Investment and (2) Cosmo Investment (referred to as "the Financial Establishments") complaining that they have collected deposits and defaulted to return the deposits on demand, an offence came to be registered with Khar Police Station by the EOW invoking Sections 406, 420 r/w. 34 of the I.P.C. and Sections 3 & 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishment) Act, 1999.

3) When the Government was satisfied that the Financial Establishments and their Chairman / Directors & Alliances are not likely to return the deposits to the depositors, in order to protect the interest of the depositors, by invoking the power conferred in sub-Section (1) of Section 4 and Section 5 of the MPID Act, the Government of Maharashtra directed attachment of the properties of the Financial Establishments and also the property in the name of the Chairman / Directors as specified in the scheduled and appointed the Deputy Collector, Malad to be the Competent Authority to exercise control over the properties of the Financial Establishment and its Directors which were directed to be attached.

The Notification accompanied with the schedule included a flat in form of Flat No.203 belonging to Mr. Mayank Hemant Doshi and Chaitali Mayank Doshi, which was the subject matter of attachment. Apart from this, the part (B) of the schedule covered the movable property in form of distinct Accounts and some shares which were specifically specified from Item No.31 to Item No.34 of the schedule.

Pursuant to the process being initiated, an Affidavit was filed by the Deputy Collector, Malad, the Competent Authority and pursuant thereto, the MPID Court passed the Order. By the said Application, the Competent Authority sought directions for making the attachment absolute and on taking into consideration the Affidavit that was filed by the

Competent Authority, referring to the properties of the Financial Establishment and its Directors and indicating the procedure to be followed thereupon, the two Orders came to be passed; the Order passed below Exh.53, along with the Impugned Order on the very same day.

As far as the Order passed on Exh.53, it refers to the objections raised by the Accused as regards attachment of the property by the notification issued under Section 4 of the MPID Act and upon hearing the Counsel for the Accused an on perusal of the Affidavits, the Court arrived at the conclusion that pursuant to the notification published in the Official Gazette, the Deputy Collector, Bandra took charge and filed an Application, specifically setting out that it has attached the flat worth Rs.1,54,71,766/- and by the second Notification the value of the properties which was sought to be attached was assessed as Rs.10,99,60,014/- and the Notification which was in the pipeline sought attachment of properties worth Rs.6,55,22,192/- as the total outstanding amount which was projected was to the tune of Rs.17,38,00,000/-. The Court was therefore informed for realizing the amount to be paid to the investor, the properties were required to be put for auction.

4) The Designated Court, by applying the law, which make it imperative to see whether the Notification / Order published by the State Government for attachment is legal and whether the State Government has

recorded its satisfaction that there is a reason to believe that the properties are acquired from the money of the depositors referred to Section 4 of the Act and also referred to the objections raised by the objectionist relying upon a letter of the ICICI Bank as it was the contention that it was a home loan was obtained for purchase of said flat but in any case, upon due scrutiny of the objections, the Court arrived at the conclusion that the aforesaid flat is not purchased by the money of the depositors and there are no reasons recorded by the Officer of the State Government in the Notification showing that the properties acquired by the Financial Establishment are not available for attachment or not sufficient for repayment of the depositors and therefore it was necessary to acquire the flat belonging to one of the Director.

By relying upon the decision in case of ***Ravindra Shah V/s. State of Maharashtra & Ors.***[1] as well as the decision of the Apex Court in case of ***K. K. Bhaskaran V/s. State of Tamilnadu***[2], the Court specifically was of the view that the attachment of the flat cannot be made absolute and specifically recorded thus :-

> *"16. As per submissions of Ld. APP, second Notification in respect of other properties valued at Rs.10,99,60,014/- has been issued and third Notification of the property valued at Rs.6,55,22,192/- is in the pipeline. Thus, there are other properties worth Rs.27 Crores attached by the State*

1. SLP (Cri) Diary No.(s). 10560/2023 dated 17.03.2023
2. 2011 (3) SCC 793

Government, which are sufficient to satisfy the claim of the depositors.

17. 30 Bank accounts having balance of Rs.19,59,751/- and 2,63,694 shares standing in the name of accused nos.1, 3, 4 and 7 are also attached. Thus, there are sufficient other properties for attachment and sale to satisfy the claim of the depositors. In the result, I proceed to pass the following order:-

ORDER

1. *Application (Exh.53) in MPID Spl.Case No.8/2018 is allowed.*
2. *Attachment of immovable property i.e. Flat No.203, B-wing, 2nd Floor, Pratap Heritage CHSL, Chandavarkar Road, Opp. Veer Savarkar Garden, Borivali (W), Mumbai 400092, is hereby released/raised.*
3. *Competent Authority is hereby directed to take steps for raising/releasing the attachment of the aforesaid property within four weeks from uploading of this order.*
4. *Application (Exh.53) in MPID Spl.Case No.8/2018 is disposed of accordingly."*

As a result of the aforesaid discussion, the attachment of immovable property i.e. Flat No.203 was raised.

5) As far as the impugned Order is concerned, it is with reference to the 30 bank accounts of the accused persons along with 2,63,694 shares standing in the name of the Accused Nos.1, 3, 4 and the Accused No.7 - M/s. Cosmo Investment.

The impugned Order categorically record that there was no specific objection raised as relating to the 30 bank accounts and shares and on the contrary, since the objection was raised as regards Flat No.203

owned by accused No.5 and his wife, it was separately dealt with as an Order was passed on Exh.53 raising the attachment on the said flat.

The learned APP submit that approximately Rs.19,59,751/- is the amount shown as balance in 28 out of 30 bank accounts which were already attached, and in absence of any objection being raised, the attachment of the money in the bank accounts along with the shares standing in the name of Accused Nos.1, 3, 4 and 7 was made absolute.

6) The learned Counsel for the Appellant has placed before us the copy of the objection which was raised before the Special Court, under the caption "Reply on behalf of the Respondent Nos.1 to 7 objecting the attachment of the property" and we have carefully perused the said objection raised on September, 2024, responding to the Application i.e. Exh.53.

We find that except raising a general plea that the property so listed/attached are not connected with the alleged crime, and the crime as alleged in the F.I.R. has been settled, the present claims are false, the Application is even otherwise not maintainable, we do not find any specific ground raised as regards the 30 bank accounts and the shares sought to be attached by Section 4 Notification.

Though we find that large part of the pleadings in the said Application pertain to the immovable property i.e., the flat and by taking into consideration the objection and looking into the merits of the objection, the Court has already raised the said attachment.

7) We do not find any legal infirmity in the impugned Order dated 13/08/2025 as the Court has rightly recorded that there is no objection raised relating to 30 bank accounts and the shares.

Looking to the scheme of the MPID Act and in specific, Section 7(1), which contemplate that upon receipt of an application under Section 5, the Designated Court shall issue a notice to the Financial Establishment, or to any other person whose property is attached and vested in the Competent Authority and the notice be accompanied by the Application and affidavits of evidence, if any recorded, calling upon the Establishment to show cause as on a date to be specified, why the Order of attachment should not be made absolute. Pursuant thereto, any person claiming any interest in the property attached or any portion thereof may raise an objection before the Designated Court at any time before an Order passed under sub-section (4) or sub-section (6) of Section 7. The Designated Court by virtue of Section 7(4), is empowered to make an Order of attachment absolute if no cause is shown and no objections are raised under sub-section (3), on or before the specified date and it is also competent for the Court to issue some directions, as are necessary for realization of the assets attached and for the equitable distribution along with the depositors of the money realized from out of the property attached.

The learned Judge in the impugned Order has clearly recorded that since no objection was raised as regards the bank accounts and the shares attached, he has made the attachment absolute, as while passing the Order on Exh.53, the Court has already released the flat and therefore he harped upon the bank accounts with the balance of Rs.19,59,751/- and the shares standing in the name of accused Nos.1, 3, 4 and 7, which was considered to be sufficient to satisfy the claim of the depositors, as two other notifications were already on its way.

8) Finding no legal lacuna in the impugned Order, we are not inclined to entertain the Appeal and the same is dismissed.

(SHYAM C. CHANDAK, J.) **(BHARATI DANGRE, J.)**