IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.5 OF 2024

M/s. Dulisons Cereals
Through its proprietor Smt. Kanta Gupta,
House No.2249, Sector 7, Urban Estate,
Karnal, Haryana 132001 .... Appellant
(Orig. Respondent No.2)

V/s.

1. The State of Maharashtra
(Through Competent Authority appointed
under the MPID Act, 1999
3rd floor, MPID branch, Old Custom House,
Mumbai – 400001 .... Respondent No.1
(Orig. Applicant)

2. National Spot Exchange Ltd.
A Company incorporated under the
Companies Act 1956 and having its
Office at Malkani Chambers, 1st Floor,
Off. Nehru Road, Near Hotel Orchid,
Vile Parle (East), Mumbai – 400 099 .... Respondent No.2
(Orig. Intervenor)

Mr. Vinay Bhanushali a/w. Mr. Abhiraj Rao, Mr. Sanmit Vaze and Ms. Diksha Sharma for the Appellant.
Ms. Leena Patil, Special PP a/w. Smt. P.P. Shinde, APP for Respondent No.1 – State.
Mr. Arvind Lakhawat a/w. Mr. Nimeet Sharma, Mr. Vinit Vaidya, Adv. Jalpa Shah and Ms. Himani Narula i/b. MZM Legal LLP for Respondent No.2.

CORAM: A.S. GADKARI AND
SHYAM C. CHANDAK, JJ.

RESERVED ON : 3rd FEBRUARY, 2026
PRONOUNCED ON : 10th MARCH, 2026

JUDGMENT : [PER : SHYAM C. CHANDAK, J.] :-

1) Present Appeal filed under Section 11 of The Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act,

1999 (for short '**MPID Act**') impugning the Order dated 4th November 2023, passed by the learned Special Judge (MPID), City Civil & Sessions Court, Gr. Bombay, thereby, rejecting the Application at Exh.11, in Misc. Application No.151/2020 (for short '**MA/151/2020**'), in MPID Special Case No.1/2014, seeking quashing and setting aside of said Order and to allow the Application (Exh.11) thereby staying the proceedings in MA/151/2020.

2) Heard Mr. Bhanushali, learned Advocate for the Appellant, Ms. Patil, learned Special PP and Smt. Shinde, learned APP for the Respondent No.1, State and Mr. Lakhawat, learned Advocate for Respondent No.2 ("NSEL").

3) Facts giving rise to this Appeal are as under :-

3.1) The said MPID Case has been filed for the offences under Section 3 of MPID Act and Section 120B read with Sections 406, 409, 420, 467 and 477A of IPC. Therein Appellant and Smt. Kanta Gupta are being prosecuted as Accused Nos.129 and 130. Smt. Kanta Gupta has been a sole proprietor of the Appellant. Respondent No.1 has filed said MA/151/2020 under Section 8 of MPID Act, arraigning M/s. PD Agro Processors Pvt. Ltd. ("M/s. PD Agro", for short) and the Appellant as Respondent Nos.1 and 2, respectively. Therein, it has been contended that the forensic audit report of M/s. PD Agro has revealed that M/s. PD Agro has received the investors' money *via* NSEL and owes its liability to the tune of Rs. 680.29 Crores. M/s. PD Agro became member of NSEL on

26th September, 2011 and has traded on NSEL platform from 1st October, 2011 till 31st August, 2013. The said forensic audit report concluded that M/s. PD Agro has transferred that investors' money from its settlement account to various entities. This includes the transfer of certain amount to the Appellant. Said transfer by M/s. PD Agro to the Appellant is *malafide* as per Section 8 of the MPID Act and is liable to be attached. Therefore, it has been prayed to attach the properties of the Appellant to safeguard the interest of the investors.

4) During pendency of the MA/151/2020, the Appellant filed an Application below Exh.11, through Smt. Kanta Gupta. The Appellant asserted therein that Smt. Kanta Gupta had inherited the Appellant firm M/s. Dulisons Cereals after the demise of her husband late Shri. Narendra Agarwal and mother-in-law Smt. Pishta Agarwal. Appellant was not engaged in any trading activities as Smt. Kanta Gupta has been a housewife. That, earlier, the SBI had filed an Application before the NCLT, Mumbai bearing CP(IB)/1145/MB/2021 against the Appellant. Said Application has been titled as "State Bank of India v/s. Smt. Kanta Gupta" and it has been filed under Section 95(1) of the Insolvency and Bankruptcy Code, 2016 (IBC) read with Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019, to initiate Insolvency Resolution Process against the Appellant. On

account of filing of said Application, interim moratorium had commenced against the Appellant in terms of Section 96 of the IBC. In MA/151/2020, the Competent Authority has sought for an attachment of the property of the Appellant under Section 8 of MPID Act. However, since said interim moratorium was set and continuing *qua* Smt. Kanta Gupta, therefore, no legal action can be instituted or commenced or continued against her in view of the provisions of Section 96. As a result, the proceedings in MA/151/2020 would deemed to be stayed. In this background, the Appellant filed the Application at Exh.11 and prayed to stay the said proceedings.

5) Respondent Nos.1 and 2 opposed the Application with their say at Exh.11A & Exh.11B. Respondent No.1 contended that, Section 96 of the IBC is applicable only when the statutory attachment at the instance of Respondent No.1 under Section 4 of the MPID Act is 'debt'. There is no material on record to show that there was such a 'debt' which has been sought to be secured by the State with the help of the attachment under Section 4(1). There existed no relationship as 'debtor-creditor' between Smt. Kanta Gupta and Respondent No.1. The property of the Appellant has not been attached by Respondent No.1 to secure any debt whatsoever but to protect the interest of the depositors who have lost their monies.

That M/s. PD Agro is one of the defaulters on the exchange

platform of the NSEL and owes it liability to the tune of Rs.673.85 crores. The NSEL has obtained a decree of INR 633,66,98,350.40 along with interest @ 9% p.a. Execution proceedings has been initiated to execute the said decree. M/s. PD Agro has been declared as Financial Establishment under the MPID Act. That, Smt. Kanta Gupta, sole proprietor of the Appellant, has been a family member of the Director of M/s. PD Agro. The relevant Forensic Audit Report revealed the money trail of about Rs.13.60 Crores from M/s. PD Agro to the Appellant. Said direct money trail of deposits from M/s. PD Agro to the Appellant, *per se*, liable to be attached under Section 4 (1) and 8 of the MPID Act. It was contended that only the Interim Resolution Professional has the locus to file an Application under the IBC. As a result, Section 96 is not applicable to the case. Hence, there is no substance in the Application at Exh.11.

6) The NSEL/Respondent No.2 has raised similar contentions and has opposed the Application.

7) After considering the record and submissions made by the parties, the learned Judge of the trial Court accepted the contentions of the Respondents and held that the proceedings in MA/151/2020 filed under Section 8 of the MPID Act against the Appellant cannot be stayed and therefore rejected the Application at Exh.11.

8) Mr. Bhanushali, learned Counsel appearing for the Appellant submitted that, the term “debt” defined under the IBC includes the term

"deposit" as defined in MPID Act. Since, the subject matter, money was a debt, for the purpose of Section 96, the attachment proceedings initiated before the trial Court is illegal. However, the trial Court erroneously held that the proceeding under Section 8 is not in relation to debt. The trial Court has failed to appreciate that the guarantors may be completely strangers to the debtors and therefore the moratorium mentioned in Section 96 of IBC would cover the proceedings initiated by the Competent Authority. The learned Counsel submitted that, considering the provisions of Article 254 (2) of the Constitution of India and Section 238 of IBC, it has been held that the non obstante clause of IBC would prevail over the non obstante clause of MPID Act. Therefore, the MPID Act must give way to the subsequent Parliamentary law. In the backdrop, the said attachment proceedings were liable to be stayed.

To support these submissions, Mr. Bhanushali has relied upon the decision in the case of *P. Mohanraj v. Shah Bros. Ispat (P) Ltd.*, reported in *(2021) 6 SCC 258*. It is held therein that, a legal action or proceeding in respect of any debt as mentioned in Sections 81, 85, 96 and 101 IBC, would on its plain language include a Section 138 N.I. Act proceeding. "In respect of" is a phrase which is wide and includes anything done directly or indirectly. This, coupled with the fact that the Section is not limited to "recovery" of any debt, would indicate that any legal proceedings even indirectly relatable to recovery of any debt

would be covered. Therefore, according to Mr. Bhanusahli, the Application at Exh.11 was fit to be allowed.

9) In reply, Ms. Patil, the learned Special PP appearing for Respondent No.1 and Mr. Lakhawat appearing for the Respondent No.2 submitted that, the Appellant has not denied the money trail deposits of Rs.13.60 Crores which was part of the investors' money. The amount invested by the investors cannot be termed as debt because there was no debtor-creditor relationship between the Appellant and the State. The MPID Act and the IBC work in different spheres and the two do not overlap. The attachment is carried out in exercise of specific power granted by a special statute i.e. MPID Act which has been enacted as a public law remedy to protect the interest of innocent depositors from the evil of fraud. The proceedings under Section 8 are quasi-civil and quasi-criminal in nature and arises out of a crime. Mr. Lakhawat submitted that, the said proceedings are intended to benefit the investors and individual Directors cannot be exempted or allowed to take shelter of IBC. Therefore, question of attracting the provisions of Section 96 does not arise in this case. In the backdrop, rejection of the Application (Exh.11) by the impugned Order, is lawful. Mr. Lakhawat has relied upon following decisions:-

(i) *National Spot Exchange Ltd. V/s. Union of India* reported in *(2025) 8 SCC 393*.

(ii) *ICICI Bank Limited V/s. The State of Maharashtra (EOW) and Ors.,* with Criminal Appeal No. 263 of 2023 along with connected matters, decided on 15th December, 2025

(iii) Report by the Supreme Court Committee comprising Justice (Retd) Pradeep Nandrajog constituted by the Hon'ble Supreme Court *vide* Order dated 04.05.2022 in W.P.(C) No. 995/2019.

10) We have considered these submissions and carefully gone through the reported cases and the said report. Before adverting to the controversy raised out of the rival submissions, firstly it is necessary to look into the facts which led to the filing of the MA/151/2020 under Section 8 of the MPID Act. The same are as under :

(a) Respondent No.2 is a company which was registered under the Companies Act, 1956. Respondent No.2 had provided an electronic platform for spot trading in commodities and used to operate from 16 States. Respondent No.2 was promoted by Financial Technologies (India) Limited, now "63 Moons Technologies Pvt. Ltd.".

(b) By way of a Notifications dated 5th June 2007 and 6th February 2012 issued by the Department of Consumer Affairs, Ministry of Consumer Affairs, Government of India, exemption was granted to Respondent No.2 from the operation of the Forward Contracts (Regulation) Act, 1952 for all forward contracts of one day duration for sale and purchase of commodities traded on its platform subject to certain conditions.

(c) Initially, the member companies squared off the contracts on the date of maturity. Later on it did not honour their commitments which led to wrongful loss of about Rs.5,600 Crores to about 13000 investors. The members of Respondent No.2 fraudulently obtained huge funds from Respondent No.2 against non-existent stocks of commodities. The alleged trading was being done in non-existent goods by issuing forged warehouse receipts. The designated warehouse wherein the commodities were required to be deposited, lacked in capacity and some of them had no stocks. This led to issuance of a circular dated 14th August, 2013 by Respondent No.2 thereby announcing a settlement schedule. Said circular was issued with an intent to pay total Rs.5574.31 crores to the members of Respondent No.2. Subsequently Respondent No.2 did not stick to that settlement schedule rather defaulted in all the pay outs. Consequently, FIR bearing C.R.No.216/2013 came to be registered at MRA Marg Police Station, Mumbai. Investigation revealed that, the mode of transaction allowed by the Government of India which was to be followed by Respondent No.2, was ignored and Respondent No.2 had promised attractive returns to persons who had traded on Respondent No.2 platform. The Forensic Audit Report revealed *malafide* transfer of crores of rupees by the member companies which they had received through Respondent No.2. Therefore, Respondent No.1 was constrained to file the MA/151/2020

invoking Section 8 of MPID Act.

11) With the help of Section 94 of IBC Code, a debtor at default, personally or through resolution professional, may apply to the Adjudicating Authority for initiating the insolvency resolution process. With the aid of Section 95 of the IBC, the creditor may apply either by himself or jointly with other creditors through the resolution professional to the Adjudicating Authority for initiating an insolvency resolution process. In this factual matrix, the SBI had initiated the insolvency resolution process under Section 95 of IBC.

12) Section 96 of the IBC provides that, (1) when an application is filed under section 94 or section 95 (a), an interim-moratorium shall commence on the date of the application in relation to all the debts and shall cease to have effect on the date of admission of such application and during the interim-moratorium period - (i) any legal action or proceeding pending in respect of any debt shall be deemed to have been stayed and (ii) the creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt. (2) Where the application has been made in relation to a firm, the interim-moratorium under sub-section (1) shall operate against all the partners of the firm as on the date of the application. (3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector

regulator.

13) Mr. Bhanushali has emphatically submitted that, there is repugnancy between the MPID Act and the IBC. In this regard we have considered Article 245, Article 246 and Article 254 of the Constitution of India and referred the decision in case of *M/S. Innoventive Industries Ltd v. ICICI Bank*, reported in *(2018) 1 SCC 407*.

14) The Hon'ble Supreme Court in *Innoventive Industries Ltd*. (supra), while examining the question of repugnancy, relied upon and followed the principles laid down in *Hoechst Pharmaceuticals Ltd. v. State of Bihar*, reported in *(1983) 4 SCC 45*, wherein the scope, ambit, and applicability of Article 254 of the Constitution and the circumstances in which repugnancy between Parliamentary and State enactments would arise, were considered. It was observed that the doctrine of repugnancy contemplated under Article 254 (1) of the Constitution becomes applicable only when two conditions are satisfied, namely, that both the Parliamentary enactment and the State enactment relate to the same subject-matter falling within the Concurrent List and that there exists a direct inconsistency between the provisions of the two enactments. It is only upon the fulfillment of these conditions that the State legislation would be rendered void and that too limited to the extent of such repugnancy.

Article 254(1) of the Constitution does not apply to cases of repugnancy where the alleged inconsistency arises due to an overlap

between subjects falling under List II and those contained in List I or List III. In such circumstances, the validity of the State law must be determined with reference to Article 246 and in view of the non-obstante clause in Article 246(1), read with the opening words “subject to” in Article 246(3). The State Legislature cannot enact a law in a field reserved for Parliament. If such an overlap occurs, the State law would be *ultra vires*, not on account of repugnancy, but for want of legislative competence.

It is true that the words “a law made by Parliament which Parliament is competent to enact” in Article 254(1) may, if read alone, suggest that repugnancy between a State law and a Parliamentary law could arise even outside the Concurrent List, since Parliament is competent to legislate on matters in both List I and List III. However, Article 254(1) must be read as a whole and in conjunction with clause (2), which specifically refers to repugnancy in respect of matters in the Concurrent List. Clause (2) thus guides the interpretation of clause (1), making it clear that the repugnancy contemplated is confined to the concurrent field, where a State law is inconsistent with either (*a)* a law enacted by Parliament or (*b*) an existing law.

There was a controversy at one time as to whether the succeeding words “with respect to one of the matters enumerated in the Concurrent List” govern both (a) and (b) or (b) alone. It is now settled that the words “with respect to” qualify both the clauses in Article

254(1) viz, a law made by Parliament which Parliament is competent to enact as well as any provision of an existing law. The underlying principle is that the question of repugnancy arises only when both the Legislatures are competent to legislate in the same field i.e. with respect to one of the matters enumerated in the Concurrent List. Hence, Article 254(1) cannot apply unless both the Union and the State laws relate to a subject specified in the Concurrent List, and they occupy the same field.

14.1) Similarly, in case of *K.K. Baskaran v. State rep. by its Secretary, Tamil Nadu & Ors.*, reported in (2011) 3 SCC 793 while dealing with question of validity of the Tamil Nadu Protection of Interests of Depositors in Financial Establishments) Act, 1997 [T.N.P.I.D. Act 1997], which is pari materia with the MPID Act, the Hon'ble Supreme Court has held that the T.N.P.I.D. Act 1997 comes under List II Entries 1, 30 and 32 and not under List I Entries 43, 44 and 45 of Schedule VII of the Constitution.

14.2) Referring this enunciation in case of *National Spot Exchange Ltd.* (supra), the Apex Court held that the State of Maharashtra was within its legislative competence to enact the MPID Act, the subject matter of which in pith and substance was relatable to Entries 1, 30 and 32 of the State List (List II) of the Seventh Schedule of the Constitution of India. The IBC is enacted by the Parliament under list III (Concurrent List). These factors and the aforestated enunciation of law have been well considered by

the learned trial Judge in paragraphs 14 to 18 of the impugned Order. Therefore, the question of repugnancy between the MPID Act and the IBC does not arise in this case.

15) Section 238 of IBC provides that the IBC will have the overriding effect over the other laws if any inconsistency therewith contained in any other law for time being in force or any instrument having effect by virtue of any such law. The comparative analysis of Section 14 and Section 96 of IBC makes it clear that Section 14 provides for a moratorium for corporate debtor whereas Section 96 deals with an interim-moratorium in relation to all the debts. Section 96(i)(b) clearly states that the moratorium provided in Section 96 applies to any legal action or proceeding pending in respect of any debt of the individuals.

16) In the present case, the record does not indicate that the Appellant or Smt. Kanta Gupta had obtained certain money as debt from Respondent No.1. Therefore, it cannot be maintained that there was 'debtor-creditor' relationship between the Appellant and Respondent No.1. On the contrary, the proceedings in MA/151/2020 under Section 8 of the MPID Act have been intended for attachment of property equivalent to the proper value of the property transferred *malafidely*, not in good faith or for consideration. Said transaction was and is tainted with a crime. Because, as rightly observed by the learned trial Court, the depositors were induced to trade on the said exchange

platform alluring them of handsome returns by 25 trading members of Respondent No.2 including M/s. PD Agro. The said commitments were not fulfilled by Respondent No.2, thus leading to wrongful loss of about Rs.5600 crores to about 13000 investors. In the absence of a 'debt' to be recovered, the moratorium under Section 96 of the IBC cannot be applied in this case.

Section 3 (11) of IBC defines the term "debt" as a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt. Section 2(c) of the MPID Act defined "deposit" which includes any receipt of money or acceptance of any valuable commodity by any Financial Establishment to be returned after a specified period or otherwise, either in cash or in kind or in the form of a specified service with or without any benefit in the form of interest, bonus, profit or in any other form, but does not include the amount raised by way of share capital or by way of debenture, bond or any other instrument covered under the guidelines given and regulations made by the SEBI, established under the Securities and Exchange Board of India Act, 1992. There are other categories of receipts of money, *i.e.*, 'deposits'. However, these deposits are not included in the definition of "debt" provided by Section 3 (11) of IBC. Therefore, the learned trial court has rightly held that said proceedings have been initiated under specific power granted by a

special statute MPID Act which has been enacted as a public law remedy to protect the interest of innocent depositors who lost monies.

17) In the wake of above, questions such as when the moratorium started and till what time it was continued on account of initiation of the IBC proceedings by the SBI, loses its significance.

18) Record indicates that, the notifications under Section 4 of the MPID Act issued by the State of Maharashtra are of the year 2017 and 2018. Therefore, the subject property was already vested in the State Government. Based on the facts and circumstances of the case, the Competent Authority concluded that, the attached properties of M/s. P. D. Agro would not be adequate to repay the depositors. The subject matter transfer was patently *malafide*. In this background, the Authorities felt it necessary to file the MA/151/2020 with an object to protect the claims of the gullible investors/victims. This premise led the learned trial Court to hold that, if the matter is stayed as prayed grave prejudice would be caused to the innocent depositors, who have been pursuing with the litigation for the last ten years against persons/companies like the Appellant who are making every effort to frustrate the said proceedings. Such investors cannot be made to run from pillar to post to redress their grievances. The provisions of IBC cannot be stretched to protect persons who are charged of committing offences of defrauding the investors. Therefore, the learned

trial Court was persuaded to reject the Application at Exh.11. Which, according to us is completely lawful.

19) Controversy similar to this Petition had arisen before the said Supreme Court Committee. While dealing with the issues, reference was made to the following observations of the Hon'ble Supreme Court in the decision *Biswanath Bhattacharya v. Union Of India & Ors.*, reported in *(2014) 4 SCC 392* :

> "39. If a subject acquires property by means which are not legally approved, the sovereign would be perfectly justified to deprive such persons of the enjoyment of such ill-gotten wealth. There is a public interest in ensuring that persons who cannot establish that they have legitimate sources to acquire the assets held by them do not enjoy such wealth. Such a deprivation, in our opinion, would certainly be consistent with the requirement of Article 300A and 14 of the Constitution which prevent the State from arbitrarily depriving a subject of his property."

In view thereof, the Supreme Court Committee of Justice (Retd) Pradeep Nandrajog in its Order dated 08th January 2024 held that the provisions relating to attachment under the MPID Act have been designed a mode and medium of civil forfeiture. The provisions thus incorporated in Sections 4, 7, 8 to 10 are in essence the adoption of the '*non-conviction based asset forfeiture model*' which now stands adopted the world over. Therefore, in paragraph 37, the Committee observed and concluded that, the concept of civil forfeiture being legally embedded as an accepted form of State action, the vesting of such property upon attachment

under Section 4, MPID Act removes it from the realm of inclusion as the property of the Corporate Debtor or that of the Personal Guarantor which may be protected under Section 14 or Section 96 and deployed as part of the insolvency/liquidation estate. The IBC admittedly not having any retrospective effect cannot reach back in time and assert any right of application on such assets which are now in effect State property for the purpose of the provisions of the MPID Act. Therefore the Committee concluded that, such attachment proceedings do not represent a creditor action and thus it is clear that such attachment action is above and beyond the realm of such debtor-creditor relationship. As a result, the moratorium provisions under the IBC would have no effect on the properties attached under the provisions of the MPID Act or the further attachment. In this context the Committee also considered the Order impugned in this Petition. Said Order dated 08th January, 2024 of the Committee received a seal of judicial approval from the Hon'ble Supreme Court in *National Spot Exchange Ltd.* (supra), cited by Mr. Lakhawat.

20) In the wake of above, we find no substance in the present Appeal in hand. As a result, the Appeal is liable to be dismissed.

21) In the case of *State of Maharashtra v. 63 Moons Technologies Ltd.*, (2022) 9 SCC 457 in paragraph 18 the Hon'ble Supreme Court has held that :

> " 18. There is a mushroom growth of financial establishments in the State of Maharashtra in the recent past. The sole object of these establishments is of grabbing money received as deposits from public, mostly middle class and poor on the promises of unprecedented high attractive interest rates of interest or rewards and without any obligation to refund the deposit to the investors on maturity or without any provision for ensuring rendering of the services in kind in return, as assured. Many of these financial establishments have defaulted to return the deposits to public. As such deposits run into crores of rupees, it has resulted in great public resentment and uproar, creating law and order problem in the State of Maharashtra, especially in the city like Mumbai which is treated as the financial capital of India. It is, therefore, expedient to a make a suitable legislation in the public interest to curb the unscrupulous activities of such financial establishments in the State of Maharashtra."

21.1) In *K.K. Baskaran* (supra) in paragraph 2, the Hon'ble Supreme Court has observed that "Financial swindling and duping of gullible investors/depositors is not unique to India. It has been referred to in Charles Dicken's novel '*Little Dorrit*', in which Mr. Merdle sets up a Ponzi scheme resulting in loss of the savings of thousands of depositors including the Dorrits and Arthur Clennam. In recent times there have been many such scandals e.g. the get-rich-quick scheme of the scamster Bernard Madoff in which the estimated losses of investors were estimated to be 21 billion dollars." In paragraph 3 it is observed that, "The present case illustrates what has been going on in India for quite some time. Non-banking financial companies have duped thousands of innocent and gullible depositors of their hard-earned money by promising high

rates of interest on these deposits, and then done the moonlight flit, often disappearing into another State or even foreign countries leaving the depositors as well as the State police high and dry."

22) The case in hand is not an exception to the aforesaid observations, rather, it is similar to those cases of financial fraud. Notwithstanding the issue raised in this Appeal was settled as noted above, the Appellant has caused this Court to hear this Appeal and adjudicate the same issues on merit. The facts and circumstances clearly indicate that this Appeal has been filed only to create hurdles and delay the attachment and recovery proceeding in MA/151/2020 which are in fact in the best interest of the gullible investors/victims. Said delay is with a purpose of using the defrauded money to multiply it for the benefit of the defaulters but at the cost of the investors. Although certain investors have agreed to settle their claims between 42 % to 49 %, a considerable number of investors have not received any amount towards the settlement. As against this, they have been required to spend more money and energy to recover their investments, without having received any amount whatsoever. In the meantime, their invested money to be refunded must have been considerably depreciated. On the other hand the defaulters have multiplied the said amount, at least, 4 to 5 times, in our estimation considering the rate of inflation prevailing since the time of the investment. Additionally, out of the invested money or the interest

accruing thereon the defaulters like M/s. PD Agro have been engaging in litigation to defeat the claim of the investors. Thus, the delay benefits no one except the defaulters. The defaulters are well aware that, the magnitude of the criminal case arising out of this crime is such that it may take a decade or more to reach its logical end that too at the trial Court. Therefore, the defaulters are delaying the said case at every possible stage just to reap its illegal and unethical benefits. It is a matter of common experience that similar dilatory tactics are adopted by accused persons facing cases of dishonour of cheque/s, cheating, misappropriation of money/property etc. Therefore, heavy cost has to be saddled upon the Appellant. Such a cost would help to restrict the Appellant from continuing to drag the matter unnecessarily. Having these consideration in mind, we deem it appropriate to impose a cost of Rs.10,00,000/- on the Appellant for filing this Appeal as a dilatory tactic to protract the litigation.

23) Hence, we pass following Order :

23.1) Appeal is dismissed with costs of Rs.10,00,000/- (Rupees Ten Lakhs only).

23.2) Said cost of Rs.10,00,000/- shall be paid to the Bar Council of Maharashtra and Goa's Advocate Academy and Research Center within a period of four weeks from the date of uploading of the present Judgment on the official website of the High Court of Bombay and the payment

receipt(s) shall be submitted in the Registry of this Court.

23.3) Details of the bank account for payment of cost are as under :-

Account Name	:-	BCMG'S Advocate Academy & Research Center
Account Number	:-	000120110001327
Bank Name	:-	Bank of India
Branch Name	:-	Mumbai Main
IFSC Code	:-	BKID0000001
Type of Account	:-	Current A/c

23.4) List the Appeal on 15th April 2026 for reporting compliance.

(SHYAM C. CHANDAK, J.) **(A.S. GADKARI, J.)**

24) At this stage, Mr. Bhanushali, learned counsel appearing for the Appellant requested that, the ad-interim relief granted earlier may be continued for the period of four weeks, to enable the Appellant to challenge this Judgment before the Hon'ble Supreme Court.

25) For the reasons recorded in the Judgment, we are not inclined to accept the said request. Hence, said request is rejected.

(SHYAM C. CHANDAK, J.) **(A.S. GADKARI, J.)**