

passed by the High Court of Judicature at Bombay² in Criminal Writ Petition No. 6137 of 2024, whereby the learned Single Judge dismissed the writ petition filed by the appellant and affirmed the order dated 4th May, 2024, passed by the Additional Sessions Judge and Special Judge under the Maharashtra Protection of Interest of Depositors Act, Phaltan³. By the said order, the Trial Court had rejected the application preferred by the appellant under Section 451 of the Code of Criminal Procedure, 1973⁴ seeking release of his vehicle, which had earlier been seized by the investigating agency.

5. The brief facts, relevant for the disposal of the present appeal, are narrated hereinbelow: -

5.1. Upon a complaint lodged by one Rajesh Mohanlal Doshi, an FIR bearing No. 47 of 2019 came to be registered on 31st January, 2019 under Sections 406, 409, and 420 read with Section 34 of the Indian Penal Code, 1860 against 13 accused persons, including accused No. 4, namely, Dhanesh Nawalchand Shaha, who is the father of the present appellant.

5.2. The allegations in the FIR, *inter alia*, were that the accused persons had induced the complainant and his family members to invest a sum of Rs. 56,70,225/- in

² Hereinafter, referred to as "High Court".

³ Hereinafter, referred to as "Trial Court".

⁴ For short, "CrPC".

“Shri 1008 Chintamani Parshunath Gramin Bigarsheti Patsanstha, Kolki, Phaltan”⁵. It was alleged that upon maturity of the investment, neither the complainant nor his family members received the assured returns, leading them to believe that they had been cheated by the Chairman and Directors of the said financial establishment.

5.3. The father of the present appellant came to be arraigned as accused No. 4 in the subject FIR on account of his position as one of the Directors of the said financial establishment.

5.4. In the meanwhile, the present appellant purchased a new Wagon-R car⁶ bearing registration No. MH-11-DA-7627 on 2nd June, 2022.

5.5. Further, upon completion of investigation, a chargesheet dated 23rd December, 2022 came to be filed against the accused persons, including the father of the present appellant.

5.6. It was around the same period that the investigating authorities seized the aforesaid vehicle. Aggrieved thereby, the appellant preferred an application under Section 451 of CrPC seeking interim release of the subject vehicle.

5.7. By order dated 4th May, 2024, the Trial Court dismissed the said application holding that the subject

⁵ For short, “company”.

⁶ Hereinafter, referred to as “subject-vehicle”.

vehicle stood attached under Section 4(1) of the Maharashtra Protection of Interest of Depositors Act, 1999, and that release thereof would adversely affect the proceedings relating to attachment and eventual sale of the seized property for repayment of the depositors' dues.

5.8. Aggrieved thereby, the appellant preferred a writ petition before the High Court challenging the order passed by the Trial Court and seeking a direction to the respondent authorities to release the subject vehicle.

5.9. The High Court, by order dated 3rd January, 2025, dismissed the writ petition observing that the appellant was a director of the company and that the vehicle had been seized during the course of investigation.

6. Aggrieved thereby, the appellant is before this Court.

7. At the outset, we are unable to concur with the reasoning adopted by the High Court and the Trial Court while rejecting the appellant's prayer for release of the subject vehicle. Though the impugned order passed by the High Court contains little independent reasoning, it suffers from a manifest error of fact inasmuch as the learned Single Judge has proceeded on the premise that the appellant himself was a director of the company in question.

8. The record, however, reveals that it was the appellant's father who had been arraigned as an accused on account of his position as one of the Directors of the said financial

establishment. The appellant himself was neither named as an accused in the chargesheet nor shown to have any role in the affairs of the establishment.

9. Apart from the aforesaid factual error, the courts below have also misdirected themselves in law while dealing with the question of attachment and seizure of property under the provisions of the MPID Act.

10. At this juncture, it would be apposite to examine the ingredients of Section 4(1) of the MPID Act so as to appreciate the circumstances in which attachment of property is permissible under the statute. The said provision reads thus: -

“4. Attachment of properties on default of return of deposits.-

(1) Notwithstanding anything contained in any other law for the time being in force,-

(i) where upon complaints received from the depositors or otherwise, the Government is satisfied that any Financial Establishment has failed,-

(a) to return the deposit after maturity or on demand by the depositor; or

(b) to pay interest or other assured benefit; or

(c) to provide the service promised against such deposit: or

(ii) where the Government has reason to believe that any Financial Establishment is acting in a calculated manner detrimental to the interest of the depositors with an intention to defraud them;

and if the Government is satisfied that such Financial Establishment is not likely to return the deposits or make payment of interest or other benefits assured or to provide the service against which the deposit is received, the Government may, in order to protect the interest of the depositors of such Financial Establishment, after recording reasons in writing, issue an order by publishing it

in the Official Gazette, attaching the money or other property 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 the Financial Establishment, or if it transpires that such money or other property is not available for attachment or not sufficient for repayment of the deposits, such other property of the said Financial Establishment or the promoter, director, partner or manager or member of the said Financial Establishment as the Government may think fit.

...”

11. Section 4(1) of the MPID Act begins with a non-obstante clause, thereby giving the provision an overriding effect over the general procedure contemplated under statutes such as the CrPC. At the same time, the power of attachment thereunder is not unbridled and is circumscribed by specific statutory conditions which define its scope and ambit.

12. A plain reading of the provision indicates that the jurisdiction to attach property may be invoked only upon satisfaction of certain jurisdictional facts. Firstly, there must either exist complaints from depositors, or the Government must be satisfied that the Financial Establishment has failed or is likely to fail in returning deposits upon maturity or on demand, or in paying the assured interest, benefits, or rendering the promised services in respect of such deposits. Alternatively, the Government must have reason to believe that the Financial Establishment is acting in a calculated manner

detrimental to the interests of the depositors with an intention to defraud them.

13. However, the existence of either of the aforesaid conditions by itself is not sufficient. Section 4(1) further mandates that the Government must additionally arrive at a satisfaction that the Financial Establishment is not likely to return the deposits or discharge its obligations towards the depositors. It is only upon such satisfaction being reached that the Government may proceed to attach the money or property concerned, after recording reasons in writing and issuing an order published in the Official Gazette.

14. The provision also delineates the nature of property that may be subjected to attachment. In the first instance, attachment may extend to money or property believed to have been acquired by the Financial Establishment, either in its own name or in the name of any other person, out of the deposits collected by it. The legislative intent, therefore, is primarily to secure those assets which bear a nexus, direct or indirect, to the deposits received from investors.

15. The provision further contemplates a situation where such property is either unavailable or insufficient to satisfy the claims of the depositors. In such circumstances, MPID Act permits attachment of other properties belonging to the Financial Establishment or its

Promoter, Director, Partner, Manager, or member. Thus, the provision incorporates a limited principle akin to vicarious liability in relation to persons managing or controlling the affairs of the Financial Establishment.

16. Therefore, the first endeavour of the Government, while exercising powers of attachment under Section 4(1) of the MPID Act, must necessarily be directed towards the money or property which is believed to have been acquired out of the deposits collected from the defrauded depositors. It is only when such money or property is either unavailable or insufficient for repayment of the depositors that the statute permits attachment of other properties belonging to the Financial Establishment or its Promoter, Director, Partner, Manager, or member.

17. At the same time, it must be emphasised that Section 4(1) of the MPID Act does not contemplate attachment of properties belonging to family members or relatives of such Promoters, Directors, Partners, Managers, or members merely by virtue of their relationship with the accused persons. The provision cannot be expanded to fasten vicarious consequences upon individuals who neither hold any position in the Financial Establishment nor possess any demonstrable nexus with the alleged proceeds of the deposits collected by the establishment. Any such action would travel beyond the authority

conferred by the statute and would be *de-hors* the procedure established by law.

18. The concept of vicarious liability in criminal jurisprudence is a carefully circumscribed exception and cannot be presumed in the absence of a clear statutory mandate. Criminal law recognises principles such as common intention, criminal conspiracy, and unlawful assembly only where the requisite *mens-rea* and participation are established. Mere familial relationship with an accused cannot, by itself, become a ground to subject an individual or his property to coercive statutory action. To hold otherwise would amount to stigmatising innocent family members for no fault attributable to them in law.

19. The legislative intent underlying Section 4(1) of the MPID Act is clear. The statute seeks to protect innocent depositors by securing and attaching the proceeds derived from fraudulent financial activities. However, such protection cannot be achieved at the cost of depriving unrelated third parties or family members of their legitimately acquired properties, in the absence of any material indicating that such properties were acquired from the deposits collected by the errant Financial Establishment.

20. Tested on the anvil of the aforesaid principles, the facts of the present case reveal that the chargesheet dated 23rd

December, 2022 does not arraign the present appellant as an accused, nor does it attribute to him any role in the affairs of the Financial Establishment in the capacity of a Promoter, Director, Partner, Manager, or member.

21. Equally, it is not the case of the respondents that the subject vehicle was purchased from out of the funds collected from the depositors of the establishment. On the contrary, the material on record clearly indicates that the appellant had availed a loan of Rs. 6.40 lakhs from ICICI Bank for purchase of the said vehicle. Furthermore, the vehicle stands registered in the name of the appellant himself and not in the name of his father, who has been arraigned as an accused in the criminal proceedings.

22. In view of the factual position noticed and the discussion made hereinabove, we are unable to sustain the findings recorded by the High Court and the Trial Court. We are of the considered opinion that the attachment of the subject vehicle under Section 4(1) of the MPID Act was wholly unwarranted and cannot be sustained in law.

23. Consequently, the final order dated 3rd January, 2025, passed by the High Court of Judicature at Bombay in Criminal Writ Petition No. 6137 of 2024 is hereby set aside.

24. We further direct that the subject vehicle, namely Wagon-R car bearing registration No. MH-11-DA-7627,

shall be released forthwith upon the appellant furnishing a certified copy of this order before the Trial Court, subject to such terms and conditions as the Trial Court may deem fit to impose.

25. Accordingly, the present appeal stands allowed.

26. Pending application(s), if any, shall stand disposed of.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI
MAY 18, 2026