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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 23 OF 2023

MUEEN MADHWANI ... APPLICANT
VS
STATE OF GOA THROUGH ITS
PUBLIC PROSECUTOR AND ANR. ... RESPONDENTS

AND
CRIMINAL REVISION APPLICATION NO. 24 OF 2023

MUEED MADHWANI ... APPLICANT
VS
STATE OF GOA, THROUGH ITS
PUBLIC PROSECUTOR AND ANR. ... RESPONDENTS

Mr. D. Lawande with Mr. S.A. Sawaikar, Advocates for the
Applicant in Criminal Revision Application No. 23 of 2023.

Mr. Gauravvardhan Sinai Nadkarni, Advocate for the
Applicant in Criminal Revision Application No. 24 of 2023.

Mr. S.G. Bhobe, Public Prosecutor for the Respondents in
both the Criminal Revision Applications.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 23rd JANUARY 2024

P.C.

1. Heard Mr. Lawande for the Applicant in Criminal Revision Application No. 23 of 2023, Mr. Nadkarni for the Applicant in Criminal Revision Application No. 24 of 2023 and the learned

Public Prosecutor Mr. Bhobe for the Respondents in both these Revision Applications.

2. The order impugned in these Revision Applications is dated 04.08.2023 passed by the learned Sessions Judge, Margao, thereby directing that charges be framed against the Applicants/Accused for the offences punishable under Sections 406, 409 and 420 read with Section 120-B of IPC as well as Section 5 of the Goa Protection of Interests of Depositors (Financial Establishments) Act, 1999 and Sections 4 and 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978.

3. On 06.12.2023, this Court passed the following order:

“Mr. Bhobe, learned Public Prosecutor appearing for the State submits that matter is required to be considered on merits since the impugned order is challenged with regards to framing of charge.

2. Mr. Lawande, appearing for the petitioner submits that charge is already framed and matter is likely to proceed for evidence.

3. Mr. Bhobe submits that there is no likelihood of proceeding the matter, since the prosecution is intending to file supplementary chargesheet.

4. *In view of the above statement and the fact that no substantial process will happen, this matter be taken up for final disposal at the admission stage. Accordingly, matter is posted on 15.1.2024.*

5. *It is made clear that matter will be taken up for final disposal. Accordingly, place this matter at the end of board for final disposal on 15.1.2024.”*

4. Mr. Bhobe, learned Public Prosecutor appearing for the State, on instructions, submits that the Investigating Officer is still in the process of collecting further evidence and is likely to file a supplementary chargesheet preferably within a period of four weeks. He would submit that the chargesheet filed before the learned Sessions Court contains a note on the last page wherein clause 6 reads thus:

“The investigation of the present case is not yet completed with respect to collection of further evidence against accused persons mentioned at column no. 11 at serial no. A-1 to A-6.”

5. Mr. Lawande and Mr. Nadkarni appearing for the Applicants would submit that in fact, the accused persons argued before the learned Sessions Court that it is an incomplete

chargesheet and therefore, the material placed before the Court is not sufficient to frame a charge.

6. Mr. Bhobe now submits that formal charge was explained to the accused persons on 23.08.2023.

7. Be that as it may, since a specific statement is made in the chargesheet that the investigation is yet to be completed and the Investigating Officer is in the process of collecting further evidence, the learned Sessions Judge ought to have allowed the Investigating Officer to file a supplementary chargesheet before considering the matter for arguments on framing of charge.

8. Since, on instructions, a statement is now made by the learned Public Prosecutor that the supplementary chargesheet will be filed within four weeks, it is necessary for the learned Sessions Judge to consider the material which will be filed along with the supplementary chargesheet for the purpose of ascertaining whether the charge could be framed against the accused persons.

9. The impugned order as well as the charges framed against the accused persons, are only on the basis of the chargesheet which was initially filed with a specific statement that further

investigation is in progress. In other words, it shows that the investigation is not complete in all respects. In such circumstances, the accused persons will have to be given an opportunity to argue the matter afresh after the supplementary chargesheet is furnished by the Investigating Officer in the Court.

10. The learned Sessions Court will have to consider the material placed before it along with the supplementary chargesheet, to find out whether the material in the original chargesheet as well as in the supplementary chargesheet is sufficient enough to frame charge against the accused persons.

11. The question which is raised in the present Revisions cannot be gone into at this stage since admittedly, the investigating agency is in the process of collecting further evidence and that a supplementary chargesheet will be filed before the learned Sessions Court.

12. Having said so, these Revisions could be disposed of by allowing the Applicants to argue the matter afresh in connection with framing of charge after the supplementary chargesheet is served upon them.

13. The learned Sessions Judge shall consider the original chargesheet as well as the supplementary chargesheet for coming to the conclusion whether charges are required to be framed against the accused persons. Liberty is granted to the Applicants to argue the matter afresh on the basis of the main chargesheet as well as the supplementary chargesheet. Only thereafter, the learned Sessions Judge shall consider the matter at the stage of Sections 227 and 228 of Cr.P.C. afresh. All contentions of all parties are kept open.

14. With these observations, both these Revision Applications stand disposed of. Needless to mention that this Court has not gone into the merits or grounds raised in the present Revisions.

BHARAT P. DESHPANDE, J.