MHCC020001322003

Presented on	**:**	30/06/2003
Registered on	**:**	30/06/2003
Decided on	**:**	13/05/2025
Duration	**:**	21 Ys 10 Ms 13 Ds
Exhibit	**:**	179

Form No.XXXII
Part 'A' (Title Page of Judgment)
[Para 44(i) of Chapter VI of Criminal Manual]

BEFORE THE DESIGNATED COURT UNDER THE MAHARASHTRA PROTECTION OF INTEREST OF DEPOSITORS ACT, 1999
CITY CIVIL & SESSIONS COURT, MUMBAI

PRESENT :- **NIKHIL PRAKASH MEHTA**,
ADDITIONAL SESSIONS JUDGE,
(JO CODE : MH000985)

MPID SPECIAL CASE NO.03 OF 2003

[Date of the Judgment : 13th May, 2025]

Details of FIR/Crime No. and Police Station	**C.R. No.33/2001 (C.R. No.156/2001 registered with Malad Police Station)** for the offence punishable under Sections 406, 420, 114 of the Indian Penal Code, 1860 and under Sections 3 and 4 of The Maharashtra Protection of Interest of Depositors Act, 1999 by GB, CB, CID, Mumbai.
(Name of original Complainant/ informant - Relative of the victim)	**The State of Maharashtra (GB, CB, CID, Mumbai)** **V/s** **1. Ajay Amrutlal Thakkar (Abated)** **2. Mrs. Bhavana Ajay Thakkar**

Represented By	**Special Public Prosecutor (SPP)** Mr. Suryawanshi

Accused (Name with all particulars)	**1. Ajay Amrutlal Thakkar (Abated on 14.04.2001)** **2. Mrs. Bhavana Ajay Thakkar** Age : 61 years, Occ : Housewife R/o. A wing, 404, Sheetal Chhaya Bldg., S. V. Road, Above rationing office, Malad (W), Mumbai-64.
Represented By	Ld. Advocate Ashok Mishra a/w Ld. Advocate Kinjal Mehta i/b M/s. Solicis Lex for accused no.2.

Part 'B'
[Para 44 (ii) of Chapter VI of Criminal Manual]

Date of Offence	During the period from 1998 to 05.04.2001
Date of FIR	05.04.2001
Date of Charge-sheet	19.02.2003
Date of Framing of Charges	12.07.2012
Date of commencement of evidence	24.01.2017
Date on which judgment is reserved	------
Date of the Judgment	13/05/2025

Accused Details

Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428 Cr.PC.
1. Ajay Amrutlal	Abated on 14.04.2001	-------	under Sections 406, 420, 114 of	Acquitted under Sections 406,	NA	NA

Thakkar (Abated) 2. Mrs. Bhavana Ajay Thakkar	12.04.2001	18.05.2001	the Indian Penal Code, 1860 and under Sections 3 and 4 of The Maharashtra Protection of Interest of Depositors Act, 1999	420, 114 of the Indian Penal Code, 1860 and under Sections 3 and 4 of The Maharashtra Protection of Interest of Depositors Act, 1999		

Part 'C'
[Para 44 (iii) of Chapter VI of Criminal Manual]

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. Prosecution :

RANK	NAME	NATURE OF EVIDENCE
PW-1	Jitendra Janu Bavkar	Victim / investor
PW-2	Mohan Sundar Kotiyan	Victim / investor
PW-3	Mayur Vinaychand Shah	Victim / investor
PW-4	Baldevsingh@ Billa Gulwantsingh Manku	Victim / investor
PW-5	Balwantrai Laxmidas Thakkar	Victim / investor
PW-6	Manish Anil Dattani	Victim / investor
PW-7	Hemant Kantilal Shah	Victim / investor
PW-8	Pradeep Waljibhai Parmar	Victim / investor
PW-9	Kishan Ratanchand Bodhwani	Victim / investor
PW-10	Retired PI- Balkrishna Umakant Bhange	Investigating Officer

(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE
	NIL	

(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE
NIL		

(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution :-

Sr. No.	Exhibit	Description
1.	Exh.73	Original Bill of exchange
2.	Exh.88	Memorandum of Association and Articles Association of Lacreme Finance
3.	Exh. 141 to 144	Original bank certificate and bank statement
4.	Exh.145	Bank statement showing encashment of cheque
5.	Exh.146	Bank statement showing encashment of cheque
6.	Exh.147	Bank statement showing encashment of cheque
7.	Exh.148	Bank statement of Kay Aar Bee Enterprises showing encashment of cheque
8.	Exh.149 & 150	Power of Attorney
9.	Exh.158	FIR
10.	Exh.159	Complaint
11.	Exh.160 to 165	6 Hundies along with report
12.	Exh.166	Office search panchanama
13.	Exh.167	Flat search panchanama
14.	Exh.168	Seizure panchanama
15.	Exh.169	Search and Seizure panchanama of Bunglow at

		Thakur Complex Dattani Foundation, Malad.
16.	Exh.170	Disclosure statement of accused
17.	Exh.171	Panchanama of panchas
18.	Exh.172	Panchanama of opening of locker
19.	Exh.173	Panchanama of possession

B. Defence Admitted Exhibits :

Sr. No.	Exhibit	Description
		NIL

C. Court Exhibits :

Sr. No.	Exhibit	Description
1	Exh.-04	Charge
2.	Exh.-05	Plea of Accused no.2
3.	Exh.-175	Statement of accused no.2 u/S. 313 of Cr.P.C.

D. Material Objects :

Sr. No.	Objects	Description
NIL		

Marked and unmarked VPR/MPR :-

Sr. No.	Objects	Description
Nil		

ORAL JUDGMENT

(Delivered on 13th May, 2025)

1. The accused nos. 1 and 2 have been prosecuted for the offence punishable under Sections 406, 420, 114 of the Indian Penal Code, 1860

and under Sections 3 and 4 of The Maharashtra Protection of Interest of Depositors Act, 1999 registered with GB CB CID, Mumbai, in C.R. No.33/2001 (C.R. No.156/2001 dated 05.04.2001 registered with Malad Police Station).

2. The gravamen of indictment against accused runs as under :

Accused Bhavana Thakkar is wife of deceased accused Ajay Thakkar. They both along with their family member had formed financial institution sometime in the year 1998 and started accepting deposit from general public promising higher returns @ 1% to 1.5% p.m. The accused firm accepted deposit both in the form of cash and cheque. After accepting deposit, accused Bhavana Thakkar and her husband used to issue bill of exchange as acknowledgment of having accepted deposit and also issued post dated cheque consisting of interest sum on the deposit.

3. It is the case of prosecution that, complainant Ajit and Vitthal visited the office of accused situated at S. V. Road, Malad (W), Mumbai. At that time accused Bhavana Thakkar and her deceased husband induced them to invest money in their accused financial firm. Complainant invested heavily in deposit scheme of accused financial firm and towards acknowledgment of deposit, bill of exchange came to be issued in their favour, signed by deceased accused Ajay Thakkar. It is not disputed that complainant and other investors received interest on their deposit for few months. From March 2001 onward, accused financial firm stopped giving interest to depositors on their invested money. The investors / depositors many a time visited accused financial firm asking for returns of deposit with interest.

4. Despite assurances by deceased accused Ajay Thakkar and his wife, no interest and deposit was paid to investors on its maturity. Thus, accused financial firm defaulted in making payment of interest with deposit to investors on maturity. Deceased accused Ajay Thakkar and his wife defrauded depositors of their valuable money wherein they gained wrongfully and cause wrongful loss to depositors. On report of complainant, crime came to be registered against both accused bearing C.R. 156/2001.

5. The investigation was conducted by crime branch CID who investigated the instant crime wherein total amount of fraud is to the tune of Rs.57.70 Crores. The property seized is of value Rs.1.27 Crores which will be used to realize the dues of investors. After completion of investigation charge-sheet is laid against accused under Sections 406, 420 r/w Section 34 of IPC and under Section 3 and 4 of MPID Act. This Court framed charge against accused nos. 1 and 2 under Sections 406, 420, 114 of IPC and under Sections 3 and 4 of MPID Act.

6. This Court examined in all Ten (10) witnesses. Incriminating statement which appeared in the evidence of prosecution witnesses was brought to the notice of accused no. 2 to which she denied and claimed false implication.

7. It is argued by Ld. SPP Mr. Suryawanshi for the State that, prosecution witnesses examined are the depositors, who invested their hard earned money in the financial scheme floated by deceased accused Ajay Thakkar

and his wife accused Bhavana Thakkar, promising higher returns and after acceptance of deposit they defaulted in making payment to investors of their matured amount. Depositors have filed on record evidence to show investment made by them with accused financial firm wherein they were promised returns higher than that what is declared by nationalized bank and other Government undertakings. Impressed by the declaration of higher returns, investors / depositors got induced and were deceived wherein wrongful loss was caused to them. It is further argued that prosecution has proved payment and acceptance of deposit by depositor and same was accepted by accused financial firm. Liability to return matured money have been established by cogent and reliable evidence and prayed for conviction of accused no.2 Bhavana Thakkar.

8. Per contra Ld. Counsel for accused submitted that accused no.2 Bhavana Thakkar is nowhere involved in the alleged crime. She has not accepted the deposit from investors as she was not in contact with them at any point of time. No amount of deposit came to her. She did not receive any benefit from the financial scheme floated by her husband. She is not having knowledge about payment of alleged higher interest promised by her deceased husband to investors. She never took any active participation in the alleged business of her deceased husband. As she was not in contact with depositors, question of her involvement in causing of wrongful loss to investors does not arise. She prayed for her acquittal in the instant crime.

9. In the light of the charge against the accused persons, evidence on record and the submissions across the bar, the following points arise for my

determination. I have recorded my findings against each of them for the reasons to follow :

SR. No.	POINTS	FINDINGS
1.	Do the prosecution prove that accused nos.1 and 2 hatched conspiracy wherein they accepted money from depositors promising good returns of doubling the deposits by forming Financial Institution and fraudulently made defaults in repayment of deposits on maturity along with agreed interest ?	In the negative for accused nos.1 and 2
2.	Do the prosecution prove that accused nos.1 and 2 hatched conspiracy wherein they dishonestly induced investors to invest their money in their financial institution by deceiving them thereby investors so cheated invested their money by way of deposits with accused no.1 causing wrongful loss to investors and wrongful gain to accused nos.1 and 2 ?	In the negative for accused no.1 and 2.
3.	Do the prosecution further prove that investors entrusted their money with accused no.1 and 2 who dishonestly diverted the said money for their own use in violation of agreement / assurance that the money would be invested in profitable scheme ?	In the negative for accused no.1 and 2
4.	What order ?	As per final order.

R E A S O N S

AS TO POINT NOS.1 TO 03 :

10. In order to establish charge under Section 3 of MPID Act, it is essential for prosecution to prove that accused was having financial

establishment which accepted deposits from various investors promising handsome returns and fraudulently made defaults in repayment of deposits on maturity along with benefits in the form of interest or profit.

11. The definition of 'deposit' and 'Financial Establishment' are rather expansive. The inclusive definition of 'deposit' covers any receipt of money or acceptance of any valuable commodity, except those amounts which have been specifically excluded by sub-clauses (i) to (vii) thereof. Likewise, any person accepting deposits under any scheme or in any other manner satisfy description of Financial Establishment except co-operation or co-operative society owned and controlled by any State Government or a banking Company defined under a Banking Regulation Act.

12. The Hon'ble Supreme Court in case between **Vijay Kumar Ghai & Ors. Vs. The State of West Bengal & Ors. [2022 LiveLaw(SC) 305]** was pleased to discuss regarding essential ingredients of the offence of criminal breach of trust and cheating under Sections 405, 415 and 420 of IPC. The essential ingredients of the offence of criminal breach of trust under Section 405 are as under :-

> *" The essential ingredients of the offence of criminal breach of trust are:-*
>
> *(1) The accused must be entrusted with the property or with dominion over it,*
>
> *(2) The person so entrusted must use that property or;*
>
> *(3) The accused must dishonestly use or dispose of that property or willfully suffer any other person to do so in violation.*
>
> *(a) of any directions of law prescribing the mode in which such trust is to be discharged, or;*

(b) of any legal contract made touching the discharge of such trust.”

The essential ingredients of the offence of cheating under Section 420 are as under :-

“ To establish the offence of cheating in inducing the delivery of property, the following ingredients need to be proved:-

(1) The representation made by the person was false

(2) The accused had prior knowledge that the representation he made was false.

(3) The accused made false representation with dishonest intention in order to deceive the person to whom it was made.

(4) The act where the accused induced the person to deliver the property or to perform or to abstain from any act which the person would have not done or had otherwise committed.”

13. It is essential to refer to the definition of “deposit” Section (2)(c) of The Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, which reads as under :-

2 (C) “deposit” includes and shall be deemed always to have included 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-

(i) 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;

(ii) Amounts contributed as capital by partners of a firm;

(iii) Amounts received from a scheduled bank or a co-operative bank or any other banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949;

(iv) Any amount received from-

(a) The Industrial Development Bank of India,

(b) A State Financial Corporation,

(c) Any financial institution specified in or under Section 6A of the Industrial Development Bank of India Act, 1964, or

(d) Any other institution that may be specified by the Government in this behalf;

(v) Amounts received in the ordinary course of business by way of -

(a) Security deposit,

(b) Dealership deposit,

(c) Earnest money,

(d) Advance against order for goods or services;

(vi) Any amount received from an individual or a firm or an association of individuals not being a body corporate, registered under any enactment relating to money lending which is for the time being in force in the State; and

(vii) Any amount received by way of subscriptions in respect of a Chit."

14. Having regard to the term "deposit", it is essential that the Financial Institution are in receipt of money or acceptance of any valuable commodity. Further, the definition of Financial Institution as laid down in Section (2) (d) of The Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 means, *"any person accepting deposit under any scheme or arrangement or in any other manner but does not include a corporation or a co-operative society owned or controlled by any State Government or the Central Government or a banking Company as defined under clause (c) of Section 5 of the Banking Regulation Act, 1949".*

15. Having regard to scheme of the MPID Act and definition of 'deposit', it would be beneficial for this Court to scrutinize the evidence of prosecution witnesses in order to ascertain complicity of accused no.2 in commission of the crime with which she is charged. Jitendra Janu Bavkar (PW-01) evidence indicates that, he was working as peon in the office of deceased accused Ajay Thakkar which job he left prior to 12 years. His job was to drop envelopes at the house of each depositors on the directions of deceased accused Ajay Thakkar. The female employees were assigned job of taking entries in the computer as and when required. Deceased accused Ajay Thakkar was accepting the deposit vide cheque and also by cash promising returns @ 1%. The cheques towards deposit were taken in the name of deceased accused Ajay Thakkar and accused Bhavana Thakkar. The cash transaction was being looked after by deceased accused Ajay Thakkar. The entry in the computer regarding acceptance of cheque was being looked after by female employees. Both deceased accused Ajay Thakkar and his wife used to sign documents concerning to business transaction. In the month of December 1998, the Income Tax authorities conducted raid in the office of deceased accused Ajay Thakkar and found illegal cash amount there in the office. One Mayur Shah (PW-03) was looking after the business account of deceased accused Ajay Thakkar. Deceased accused Ajay Thakkar committed suicide at Gujarat whereafter police sealed the office of accused financial firm and arrested accused Bhavana Thakkar in the instant crime.

16. In cross examination, he testified that deceased accused Ajay Thakkar issued bill of exchange as acknowledgment of having accepted the

deposit from him to the tune of Rs.20,000/- which said document is filed on record at Exh.73. He received interest of Rs.600/- only once towards deposit of money with accused financial firm. The amount of interest promised by accused financial firm was mentioned in the cheque drawn by accused.

17. Mohan Sundar Kotiyan (PW-02) evidence indicates that, the accused Bhavana Thakkar was having current bank account in her name maintained with the bank. On 23.03.2001 she deposited one cheque of Rs.20 Lakhs in her account and withdrew encashed amount. At her request, bank closed her bank account. In cross examination it has come in his evidence that, he is not having any material to show the date on which accused encashed the amount of Rs.20 Lakhs. He failed to depose the cheque number and the bank on which the cheque was drawn.

18. Mayur Vinaychand Shah (PW-03) evidence indicates that, he was appointed auditor of the accused financial firm to conduct internal audit. The nature of business of accused financial firm was to accept deposit and to advance loan to other party on interest. The staff of the accused financial firm used to finalize the accounts who were appointed by deceased accused Ajay Thakkar. In the year 1998, Income Tax authorities conducted raid at the office of deceased accused Ajay Thakkar and seized illegal cash to the tune of Rs.1.10 Crores. Deceased accused Ajay Thakkar used to accept cheque from investors and the deposited money they used to invest in their new venture by name 'Lacreme Finance'. The investors were repaid part payment by accused on regular basis till the end of

February 2001. Accused purchased properties from the amount of deposit received from various investors.

19. In the cross examination he testified that accused Bhavana Thakkar did not appoint him as auditor of accused financial firm. Accused Bhavana Thakkar was not prosecuted for illegal cash found by Income Tax authorities in their office. Accused Bhavana Thakkar has not done any cash transaction, no document was given to him. The borrower defaulted in making repayment of advances made to them by accused financial firm and for this reason depositors were put to loss as accused financial firm could not arrange money for repayment of their deposit with interest. No remuneration was paid to him by accused Bhavana Thakkar.

20. Baldevsingh@ Billa Gulwantsingh Manku (PW-4) evidence indicates that, the business of deceased accused Ajay Thakkar was consisting of finance and brokerage. Accused used to accept deposit from depositors with promise to return deposit @ 2% p.m. On 01.03.2001 when they visited office of deceased accused Ajay Thakkar, at that time they came to know that he is absconding. Accused Bhavana Thakkar did not tell the whereabout of deceased accused Ajay Thakkar. Towards the repayment of deposit, accused Bhavana Thakkar issued post dated cheque to investors which were total 158 in number. It is further his evidence that they have deposited Rs.70 lakhs in accused financial firm both in cash and by cheque and they received interest on deposit amount from accused financial firm just prior to two months of deceased accused Ajay Thakkar abscondance.

They did not deposit the post dated cheque issued in their name for encashment.

21. Balwantrai Laxmidas Thakkar (PW-5) evidence indicates that, deceased accused Ajay Thakkar and his wife were involved in business of finance. Deceased accused Ajay Thakkar used to accept deposit from depositors and the money collected from depositors was given on loan on interest to needy businessman. In the month of March 2001, when he visited accused office he found depositors present over there and were asking for return of their money. Accused Bhavana Thakkar was having hundies issued by one Yayaha Khatri. He did not accept the said hundies offered by accused Bhavana Thakkar. He invested Rs.70 Lakhs with accused by cheque and in lieu of cash deposited by them accused issued hundies in their name. He received interest on his investment till the year 2001. In cross examination he deposed that he did not made investment with accused no.2 Bhavana Thakkar. She never paid any interest to them. She was not involved in the transaction of investment and therefore was not liable to pay principal or interest amount to them.

22. Manish Anil Dattani (PW-6) evidence indicates that, deceased accused Ajay Thakkar purchased two flats bearing no.7 and 17 in his name and in the name of his wife for total sale consideration of Rs.23.50 Lakhs. He further testified that police attached both flats no.7 and 17. In the cross examination he testified that he deposited entire document of both the transaction with police.

23. Hemant Kantilal Shah (PW-7) evidence indicates that, they were not aware of accused Bhavana Thakkar. It is deceased accused Ajay Thakkar who used to accept deposit from public and the said amount he used to advance to needy persons on interest. He along with his group members invested Rs.1,94,85,198/-. They got return of Rs.55 Lakhs and Rs.1,39,85,198/- duped by accused financial firm.

24. Pradeep Waljibhai Parmar (PW-8) evidence indicates that, deceased accused Ajay Thakkar and accused Bhavana Thakkar used to accept deposit from investors and the deposit amount they used to advance to needy persons on interest. In the March 2001, they came to know about deceased accused Ajay Thakkar being found missing. They visited residential house of deceased accused Ajay Thakkar and found herd of depositors gathered over there. He further deposed in his evidence that deceased accused Ajay Thakkar used to accept money from depositors and his wife Bhavana Thakkar executed hundies acknowledging deposit from general public. Accused did not return the deposit money to him and other depositors. He deposited Rs.35 Lakhs with accused promising return @ 18% p.a. However the said fact he omitted to state before police at the time of recording his statement.

25. Kishan Ratanchand Bodhwani (PW-9) evidence indicates that, he used to pay money to deceased accused Ajay Thakkar by cheque towards loan. He invested money in the name of his son's Company, his wife's Company and his own Company amounting to Rs.58,05,000/-. Accused

repaid them Rs.35 Lakhs. Amount which is due from accused is to the tune of Rs.23,05,000/-.

26. Retired PI- Balkrishna Umakant Bhange (PW-10) evidence indicates that, he investigated the instant crime on the complaint lodged by informant Ajit with the allegations that accused accepted deposit from investors promising interest @ 1% p.m. Being induced by the said representation, he deposited Rs.1 Lakh with accused at different times. Accused failed to pay deposit and interest as agreed to complainant and other investors. Complainant approached him and filed FIR at Exh.159. He also filed 6 hundies along with report same are at Exh.162 to 165. On the basis of report he arrested accused Bhavana Thakkar on 12.04.2001. He took search of accused office. He sealed the office after search. He seized the list of debtors and creditors and their balance sheet for the year 2007 and prepared the panchanama vide Exh.166. They further seized electronic equipment i.e. 4 C.P.U. 1 Monitor and 1 Printer and prepared search panchanama vide Exh.167. It is further come in his evidence that accused disclose to him on 01.05.2001 that she had kept shares, post dated cheque and bill of exchange at her brother's place situated at Dahisar (East). At his residence, daughter Vaishali produced one plastic bag of blue colour and one brown colour containing shares issued in the name of accused Ajay, Bhavana, Amrutlal, Madhuben Thakkar and the shares issued in their joint name amounting to Rs.27,95,000/-. They found post dated cheques in another bank issued in the name of deceased accused Ajay Thakkar, drawn in his name by his 58 debtors and 36 hundies which were also executed by

his debtors. All the documents were seized by them vide seizure panchanama at Exh.177.

27. It is matter of record that, accused Ajay Thakkar is dead. This Court will have to see the involvement of accused Bhavana Thakkar in the commission of the instant crime. PW01 deposed in his evidence that the cheques towards deposit were taken in the name of accused Bhavana Thakkar. There is no mention in his evidence that accused Bhavana Thakkar had ever issued any acknowledgment of having accepted the deposit from investors. He did not file his bank statement on record to indicate that he had drawn cheques in the name of accused Bhavana Thakkar towards deposit made in accused financial firm. There is no bank statement indicating that the cheque issued by PW-01 came to be encashed and the amount mentioned therein got credited in the account of accused Bhavana Thakkar. It is accepted fact that she did not issue any acknowledgment receipt of having accepted the deposit from investors.

28. Evidence of PW-02 nowhere indicates as to who have issued the cheque in the name of accused Bhavana Thakkar. In absence of the name of person issuing a cheque, its number, bank name, account number on which a cheque is drawn in the name of accused Bhavana Thakkar which said material omissions is not sufficient to draw inference that the cheque contained amount of deposit collected from various depositors

29. The evidence of PW-03 indicates that it was deceased accused Ajay Thakkar who was accepting deposits from various depositors. He nowhere

named accused Bhavana Thakkar being involved in acceptance of deposits from investors and issuing deposit receipts in their name.

30. PW-04 evidence indicate that it is deceased accused Ajay Thakkar who was accepting deposit from depositors in his business of finance and brokerage. Accused Bhavana Thakkar issued post dated cheque to investors but for what purpose those cheques were issued is not mentioned. Further the cheque number, the name in whose favour the cheque were drawn, the bank number are not mentioned in his evidence. It is further not mentioned that, those post dated cheques came to be deposited by investors in their account for realization. In absence of the said material evidence, his testimony regarding implication of accused Bhavana Thakkar is of no help to the case of prosecution.

31. Evidence of PW05 indicates that accused Bhavana Thakkar was involved in the business of finance along with her husband. It is deceased accused Ajay Thakkar who was accepting deposit from investors and would give that amount to borrowers on interest as advances. Further his evidence indicate that he did not made any investment with accused Bhavana Thakkar. Thus, his evidence goes to show that accused Bhavana is not involved in acceptance of deposit from investors. Further she did not advance amount collected from deposits of investors to her borrowers on interest.

32. PW-07 indicates that they never came in contact with accused Bhavana Thakkar. He paid deposit to deceased accused Ajay Thakkar which he advance to general public on interest.

33. Evidence of PW-08 indicates that accused Bhavana Thakkar along with her husband deceased accused Ajay Thakkar accepted deposit from investors. Further accused Bhavana executed hundies acknowledging deposit from general public. His evidence is not supported by any document to suggest that accused Bhavana while conducting business of the firm had accepted deposit from investors. He has not filed promissory note on record to show that the same was executed by accused Bhavana towards acknowledgment of deposit from investors.

34. Evidence of PW-09 indicates that deceased accused Ajay Thakkar took handloan from him which he paid vide cheque drawn on Union Bank of India. The total investment was done by him with accused was to the tune of Rs.58.05 Lakhs. Thus, his evidence indicates that accused Bhavana did not approach him for handloan. He did not deliver any cheque to her towards payment of deposit. He relied on the bank entry to show that the cheque issued in the name of accused Bhavana bearing no.910339 got debited from his account on dated 01.11.2000. Cheque no.298841, 298847, 298848 got debited from his account on 14.11.2000, 21.11.2000, 25.11.2000. These bank entries are not proved by the person issuing it. No one from the bank grace the witness box to establish the authenticity of document at Exh.143 and 144. Mere filing of bank statement would not be any of support to the case of prosecution unless there is proof of record to

indicate that those statement are actually issued by witness bank. Thus, those statement which are filed on record are not sufficient to establish payment of money as deposit by PW9 in favour of accused Bhavana Thakkar. This witness no where stated that accused Bhavana Thakkar approached him and induced him by making false representation of her financial firm's health being sound showing rosy picture of returns on deposit and on such representation he got deceived.

35. From the evidence of prosecution witnesses it could not be established that accused Bhavana Thakkar was promoter, partner, director, manager responsible for the management of or conducting of the business or affairs of the financial establishment and in that capacity she accepted deposit promising higher returns and fraudulently made default in repayment of deposits on maturity with benefit. Further there is no material to show that accused Bhavana Thakkar had promised any specified service against said deposit with an intention of causing wrongful gain for herself and to cause wrongful loss to depositors. Further it could not proved that accused Bhavana Thakkar accepted deposit with intention to cheat depositors and thereby she gained wrongfully by causing wrongful loss to them. There was no intention on her part to deceive depositors which get fortified from the statement of witnesses that she never approached them for deposit. Further she never promised them higher returns which suggest that she never made false and wrongful representation with intention to deceive investors.

36. Further it could not be established that depositors entrusted any money with accused Bhavana Thakkar to be utilize by accused financial firm to gain profit to be used in repaying deposit with interest to investors. Material ingredients of Section 406, 420 of IPC and under Sections 3 and 4 of MPID Act are not established. For the reasons above, points no. 1 to 3 are answered in the negative. Therefore, I proceed to pass the following order :-

ORDER

1. Accused no. 2 **Mrs. Bhavana Ajay Thakkar** is hereby acquitted (vide Sec.235(1) of Criminal Procedure Code) for the offences punishable under Sections under Section 406, 420, 114 of the Indian Penal Code, 1860 and under Sections 3 and 4 of The Maharashtra Protection of Interest of Depositors Act, 1999.

2. The bail bond of accused no. 2 stands cancelled.

3. The accused no. 2 is hereby directed to execute PR bond of Rs.10,000/- (Rupees Ten Thousand only) and furnish solvent surety in the like amount in view of surety compliance required under Section 437-A of The Code of Criminal Procedure, 1973.

4. In view of letter of Ld. SPP vide Exhibit No.177, the other incidental proceedings of civil in nature, if pending shall be continued notwithstanding of the conclusion of present criminal trial against accused no.2.

5. The Competent Authority/ Investigating Officer of concern police station are directed to issue publication in leading newspapers English and Marathi calling upon investors/ witnesses in Financial Institution of accused to claim their deposit amount.

6. The prosecution / Investigating Officer and Competent Authority are hereby directed to make necessary compliance in view of disbursement of deposits amount of unpaid investors/ depositors and their legal heirs.

7. Marked and unmarked articles if any, being worthless, be destroyed according to law after appeal period is over.

8. Accordingly, the concern Investigating Officer / office to take the note of this order.

9. As the case is disposed off by this judgment, the record and proceedings be sent to Record Department.

(Dictated and pronounced in the open Court.)

Digitally signed by NIKHIL PRAKASH MEHTA
Date: 2025.05.14 15:26:07 +0530

Date: 13/05/2025
Mumbai

(NIKHIL PRAKASH MEHTA)
Designated Judge under
The Maharashtra Protection of
Interest of Depositors Act, 1999,
for Gr. Bombay

Dictated on	: 13/05/2025
Draft given on	: 13/05/2025
Signed by HHJ on	: 14/05/2025

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT /ORDER” 14.05.2025 at 3.21 p.m. Ms. R. D. Tari UPLOADED DATE AND TIME NAME OF STENOGRAPHER

Name of the Judge (with Court Room no.)	H.H.J. N. P. Mehta C.R. No.07
Date of Pronouncement of Judgment/Order	13.05.2025
Judgment /Order signed by P.O. on	13.05.2025
Judgment/Order uploaded on	14.05.2025