

THE HONOURABLE SRI JUSTICE P.SAM KOSHY

AND

THE HONOURABLE SMT. JUSTICE K. SUJANA

CRIMINAL PETITION No.5971 of 2011

AND

I.A.No.1 of 2025 IN / AND CRIMINAL PETITION No.6280 OF 2011

COMMON ORDER: *(per the Hon'ble Sri Justice P.Sam Koshy)*

Heard Mr. Mukul Rohatgi, Mr. Siddarth Luthra, & Mr. S. Nagamuthu, learned Senior Counsel representing Mr. K.V. Raman, learned counsel for the petitioners; Mr. B. Rajeshwar Reddy, learned Government Pleader for the State of A.P. for respondent No.1, Mr. L. Ravichander, learned Senior Counsel appearing on behalf of Mr. K. Rathanga Pani Reddy & B. Shiva Ram Sharma, for respondent No.2 (Reserve Bank of India) and Mr. Palle Nageshwar Rao, learned Public Prosecutor for the State of Telangana for respondent No.3, and and also Mr. Aruna Kumar Vundavalli (Party-in-Person) as respondent No.4.

2. These are two criminal petitions filed under Section 482 of Code of Criminal Procedure, 1908 (for short, 'Cr.P.C') by the petitioners / accused Nos.1 & 2, seeking for quashing of the criminal complaint case No.540 of 2008, seized by the I Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, wherein the two petitioners have been made as an accused for the offences punishable under Sections 45S (1)(i) and 45S (1)(ii), read with section 58B of the Reserve Bank of India Act 1934 (for short, the 'RBI Act').

3. The State of Andhra Pradesh (the combined as it then was) being the complainant filed a complaint case before the I Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, against the two petitioners herein alleging that they have committed offences punishable under Sections 45S (1)(i) and 45 S(1)(ii), read with section 58B of the RBI Act along with other related offences under the RBI Act.

4. It was alleged that the petitioners have been receiving deposits from the general public in total violation of Section 45S of the RBI Act. The allegation was that the petitioners have accepted deposits from the general public contrary to the aforesaid provision of the RBI Act with effect from 01.04.1997. Further, it was also alleged that the petitioners have also failed in repaying the entire deposits by the 1st April, 2000 as was the requirement of law then. Thus, establishing the offence under Section 45S of the RBI Act.

5. Subsequently, when the petitioners came to know about the filing of the complaint, they have filed criminal miscellaneous petition *vide* CrI.M.P.No.885 of 2010 under Sections 218 and 219 of Cr.P.C. to delist the inquiry of the petitioners under Section 251 of Cr.P.C. to any of the three offences cited. The said petition got dismissed on 01.07.2011, leading to the filing of the instant two criminal petitions.

6. Meanwhile, the State Government issued a G.O. *vide* G.O.Ms.No.801, dated 19.12.2006, appointing one Sri T.Krishna Raju, as the authorized officer under Section 58A of the RBI Act to take action against the petitioners in exercise of such authority. It is based upon this that the original criminal complaint case No.540 of 2008 came to be filed.

7. It is also pertinent to mention that the validity of G.O.Ms.No.801, dated 19.12.2006, was challenged in W.P.No.27065 of 2006, wherein, the interim prayer for suspension of the said G.O. was dismissed leading to the filing of the S.L.P.(C) No.2487 of 2007 before the Hon'ble Supreme Court, and the Hon'ble Supreme Court *vide* its order dated 20.04.2007, made it clear that there shall not be any freezing of accounts of the petitioners or attachments under The A.P. Protection of Depositors of Financial Establishments Act, 1999 (for short, the 'Act of 1999') subject to the directions given in the order. The Hon'ble Supreme Court recorded the undertaking given by the counsel for the petitioners and others before the Supreme Court that necessary amounts will be deposited in the Escrow account periodically and as and when the FDRs are matured the amounts would be paid to the depositors. The Hon'ble Supreme Court also directed the first petitioner to furnish the details of the payments made to the depositors to the RBI and the State Government and, if there is any delay in making payment to the depositors whose deposits have matured, the same had

to be reported to the RBI and the State Government and they will be at liberty to take appropriate action against the petitioners herein under the Act of 1999.

8. The petitioners between 01.04.2007 to 31.03.2013 have made payments to depositors in a sum of Rs.2596.25 crores (inclusive of interest) out of a total deposited amount of Rs.2541.59 crores outstanding as on 01.04.2007. At present, the total outstanding deposit liability is only Rs.5.33 crores for payment, of which the petitioners have been holding the amount in the Escrow account with Union Bank of India, Saifabad Branch, Hyderabad (A/c.No.370601010036137) since a long time. However, since the concerned depositors have not come forward to surrender the fixed deposit receipts for recovering the payment of the maturity amount, the petitioners could not pay the same.

9. The matter earlier came up for hearing before the learned Single Bench of this High Court on 31.12.2018, on which date, the learned Single Bench hearing the criminal miscellaneous petitions had allowed the same on the following grounds:

"25. The certificate issued by the Chartered Accountants shows that the outstanding deposit liability as on 31.03.2007 is Rs.2,541.59 crores. Repayment processed during 01.04.2007 to 31.08.2018 is Rs.2,596.98 crores. The outstanding deposit liability as 31.08.2018 is Rs.5.33 crores, and the

balance available in escrow account is Rs.5.43 crores. It is further observed in the certificate that balance lying in the escrow account is in excess of the outstanding liability as on 31.08.2018.

27. From the fact that no depositors have come forward with any complaint against the petitioners and that, in pursuance of the allegations made in the complaint, the petitioners have taken up the exercise of paying back the deposits, it can be understood that there was no malafide intention on the part of the petitioners to commit any offences with regard to the deposits collected from the depositors.

28. Hence, this Court opines, that this is a case where the inherent power under Section 482 of Cr.P.C. can be exercised for quashing the proceedings against the petitioners/accused.

29. Accordingly, with the above observation, the Criminal Petition No.6280 of 2011 is allowed and all further proceedings against the petitioners/accused in C.C. No.540 of 2008, on the file of the Court of I Additional Chief Metropolitan Magistrate, Hyderabad, are hereby quashed."

10. This order of the learned Single Bench was subjected to challenge before the Hon'ble Supreme Court in Crl.A.No.2015 of 2024 along with Crl.A.Nos.2016 & 2017 of 2024 and which were disposed of by the Hon'ble Supreme Court making the following observations, viz.,

"5. As may be seen from the extracts of the High Court's order, reproduced above, the primary and foremost reason assigned by the High Court for quashing CC No.540/2008 is that the respondent had already processed repayment to the tune of Rs.2,596.98 crores during 01.04.2007 to 31.08.2018 and the only outstanding liability as on 31.08.2018 was for Rs.5.33 crores against which the balance available in escrow account was Rs.5.43 crores. The High Court further noticed that no depositor has come forward with any

complaint against the respondent and there being no mala fide intention, the criminal prosecution was liable to be quashed.

8. That being said, we find that the High Court, before quashing the criminal proceedings, ought to have taken the following steps in the larger public interest: (i) As the Respondents were alleged to have accepted the deposits in violation of the RBI norms, the RBI ought to have been heard to comprehensively understand the intricacies involved in the matter. (ii) Since one of the raison d'être of High Court's order was that no depositor had come forward, the High Court should have issued a public notice for inviting claims of the investors. This was necessary so as to ensure that the claims of all the bona fide investors are satisfied and that the Respondent in fact did not harbor any mala fide intention.

9. We are, thus, inclined to set aside the impugned judgment on these technical grounds (without going into the merit) and remit the case to the High Court for fresh adjudication of the petition filed by the respondent (Margadarsi Financiers) in accordance with law and after hearing the State of Telangana, the State of Andhra Pradesh, the Reserve Bank of India and the bona fide investors, if they are so inclined to join the proceedings. Mr. Vundavalli Aruna Kumar, the appellant in person, is also granted liberty to assist the High Court in the pending proceedings.

10. It will be open for the High Court to invite claims/objections from the bona fide investors, and if such claims are received and require determination/scrutiny, the High Court may, if so required, appoint a former High Court Judge/Senior Judicial Officer to determine such claims, so as to enable the respondent-Financiers to settle the pending claims over and above the deposits which are already refunded. Such an exercise, however, may be undertaken in a time-bound manner.

11. The High Court may, thereafter, proceed to determine as to whether the continuation of the criminal proceedings will serve the cause of administration of the criminal justice system or it will be an exercise in futility.

13. *The Hon'ble Chief Justice of the High Court is requested to place this matter before his own bench or some other fairly senior Division Bench.*

14. *All the contentions of the parties raised before the High Court or this Court are kept open and are permitted to be urged before the High Court.*

15. *It goes without saying that the High Court shall be at liberty to consider all such contentions as per their own merit.*

16. However, this order will not entitle the State of Andhra Pradesh to institute fresh complaint(s) against the respondent on the same cause of action or in a related issue."

11. Pursuant to the aforesaid directions, the matter came up for hearing before this Bench for a fresh hearing. It is at this juncture, that Interlocutory Application No.1 of 2025 in Criminal Petition No.6280 of 2011 was filed in the light of subsequent developments that have taken place. The development was that of the death of the original petitioner No.2, viz., CH. Ramoji Rao, S/o. Late Vekata Subba Rao, on 08.06.2024 immediately after the Hon'ble Supreme Court had disposed of the criminal appeal remanding the matter to the High Court on 09.04.2024.

12. Thus, the death of the petitioner No.2, the proprietor of the firm or Karta of the said Hindu Undivided Family (for short 'the HUF) had expired on 08.06.2024. In the light of the death of the said deceased petitioner / accused No.2, the instant Interlocutory Application has been filed praying for dropping of the criminal cases, at this juncture, on this very ground itself as any further

continuation of criminal proceedings would be nothing but an exercise in futility.

13. Learned counsel for the petitioners drew the attention of the Bench to the averments made in the complaint case No.540 of 2008 and contended that upon plain reading of the entire averments in the complaint, no other individuals were implicated besides the firm and the deceased petitioner No.2 viz., CH. Ramoji Rao. Further the deceased petitioner, CH. Ramoji Rao, was in fact the Karta of the HUF and it was he alone who had allegedly taken deposits in violation of the provisions of the RBI Act as amended in the year 1997. Furthermore, there was no mention of any other party's involvement in the business operations during the relevant period. However, upon the death of CH. Ramoji Rao, the original petitioner No.2, no other individuals were named in the criminal complaint and there are no other accused left against whom the criminal complaint case could survive and, as such, the criminal case is liable to be dropped having abetted.

14. According to the learned counsel for the petitioners, the Hon'ble Supreme Court itself while remanding the matter back to the High Court wanted the High Court to scrutinize and determine as to whether the continuation of the criminal

proceedings is required in the administration of justice system or will it be an exercise in futility.

15. According to the learned counsel for the petitioners, upon notice, the RBI made their appearance and filed their objections and a paper publication was made calling upon all the depositors if any to come forward claiming for any refund against any deposit made by them or to visit the office of the petitioners for receiving the amount if any due to them. Even otherwise, it was contended that huge amount of money has already been kept as reserve in the Escrow account to meet the claim of any of the depositor if they come even at a later stage and these facts had already been taken note of by the Hon'ble Supreme Court in its decision, dated 09.04.2024, while remanding the matter back to the High Court.

16. It was further contended that since the petitioner No.2 was the Karta of the HUF and HUF lacks legal identity under the RBI Act and given that he was the sole person who alleged to have committed irregularities under the RBI Act, the criminal proceedings should automatically be dropped upon his death. However, there were two accused i.e., the HUF (accused No.1) and CH. Ramoji Rao as its Karta (accused No.2). The prosecution of the HUF cannot continue after the Karta's death since the HUF is not recognized as a person under the

RBI Act. The learned Senior Counsels argued vehemently that as the offence said to have committed by the deceased CH. Ramoji Rao, his legal heirs or other members of HUF, the subsequent Karta of HUF cannot be prosecuted in the criminal proceedings as there is no vicarious liability of the deceased and the accused can inherit only civil liabilities and so far as criminal liability is concerned, it cannot be passed to the next generation.

17. So far as respondent Nos.1 and 3 (the State of Andhra Pradesh and the State of Telangana), the counsel representing both states, acting on specific instructions, acknowledged that in light of the Hon'ble Supreme Court's observations in its order dated 09.04.2024, and the subsequent eventualities that occurred insofar as the death of petitioner No.2 CH. Ramoji Rao, the criminal prosecution has lost its legal sanctity. Both states took a categorical stand that any further proceedings in C.C.No.540 of 2008 would be a futile exercise, and they expressed their intention not to continue with the proceedings.

18. So far as respondent No.2 is concerned i.e., the Reserve Bank of India, it was contended that insofar as the offence committed by the petitioner No.2 to be in violation of the provisions of the RBI Act, the same is punishable under Section 45S read with Section 58B (5A) of the RBI Act.

19. Referring to the provisions of Income Tax Act, 1961, the learned Senior Counsel representing the RBI contended that a HUF thus has a legal status under the Income Tax Act and in support of his contention he relied upon a judgment of Patna High Court in the case of **Shoukath Hussain vs. The Commissioner of Income Tax**. He further contended that even otherwise the petitioner No.1 can be safely brought under the purview of un-incorporated association of individuals under 45S(1) of the RBI Act and such include HUF also and therefore it may be construed "*ejusdem generis*".

20. According to the learned Senior Counsel representing the RBI on the death of petitioner No.2 viz Sri CH. Ramoji Rao, the Karta of the 1st petitioner, it was at the behest of one CH. Kiran, S/o. Late Ramoji Rao, who had voluntarily moved a petition for substituting himself in place of the petitioner No.2 to pursue with the instant case. Upon substitution petition being allowed by the Division Bench of this High Court, the petitioner No.1 HUF remains in existence and since they have moved a petition for further proceeding with the petition, the cause of action still survives. Therefore, according to the RBI, the criminal complaint case need not be dropped or held to be abetted.

21. It was also the stand of the RBI that now that Sri CH. Kiran has got himself substituted in place of CH. Ramoji Rao, the status of the accused now

stands passed to the newly impleaded petitioner No.2 herein in the compendia's terms of HUF and as stated above since the petitioner No.1 is a continuing entity. As regards the other implications of law and the liability, as such would fall upon the present petitioners and the criminal complaint case need not be dropped or ordered to be abetted.

22. Having heard the contentions on behalf of all the parties to the proceedings, the core issue to be decided while considering I.A.No.1 of 2025 in Criminal Petition No.5971 of 2011 is “whether in the light of the death of CH. Ramoji Rao, S/o Late Venkata Subba Rao, would the complaint case and the proceedings thereon, or the criminal proceedings initiated based on a complaint survive any further or not?”

23. Now for better understanding the issue, in the light of the factual matrix that have been narrated in the initial part of the present judgment, in a nutshell what is reflected is that the erstwhile combined State of Andhra Pradesh had filed a complaint case before the I Additional Metropolitan Magistrate, Hyderabad, against the two petitioners herein alleging them to have violated certain provisions of the RBI Act like Section 45 S(1)(i) and Section 45 (S)(2) read with Section 58 B(5A). In view of the said alleged violation of the

provisions of the RBI Act, the petitioners were liable for criminal prosecution under Section 58 B(5A) read with Section 58(E) of the RBI Act.

24. The allegation was primarily that the accused persons having received huge deposits from several members of the general public, the accused were allegedly receiving deposits from the general public with good yearly returns, such receiving of the deposits from general public were not permissible under the RBI Act, and which amounted to violation of the provisions of the RBI Act entailing criminal prosecution. Immediately on the complaint case being registered, the petitioners had moved an Interlocutory Application before the I Additional Metropolitan Magistrate for dismissing of the complaint amongst others, primarily on the count of there being no depositor who has come forward alleging the so-called misuse of the provisions of the RBI Act and, in the absence of a genuine depositor as complainant or the aggrieved person, the case itself ought to had been rejected.

25. The said Interlocutory Application stood rejected by the I Additional Metropolitan Magistrate, which initially led to the filing of the present Criminal Petitions. The further contention was that the Hon'ble Supreme Court permitted the petitioners to operate the business ensuring that the entire payment of each and every depositor be cleared and for which the accounts of the petitioners

were not permitted to be freezed. The Hon'ble Supreme Court itself had permitted that the petitioners shall also ensure certain amount of money to be put in an Escro Account enabling the amount due to the depositors, if any, and who approach for withdrawal of the amount, the same can be made. Therefore, the subsequent registration of the complaint case by the Government was liable to be rejected.

26. The Crl.M.P.Nos.597 and 628 of 2011, meanwhile, were allowed *vide* order dated 31.12.2018. The said order was subjected to challenge before the Hon'ble Supreme Court and the Hon'ble Supreme Court remitted the matter back for a fresh re-consideration, the relevant operative part of which has already been reproduced in the preceding paragraphs of this judgment.

27. At the cost of repetition, we would like to highlight three paragraphs of the said judgment of the Hon'ble Supreme Court i.e. paragraph Nos.11, 12 and 16, which reads thus:

“11. The High Court may, thereafter, proceed to determine as to whether the continuation of the criminal proceedings will serve the cause of administration of the criminal justice system or it will be an exercise in futility.

12. We request the High Court to decide the matter afresh, preferably within six months. During such period, the complaint proceedings shall remain stayed.

16. However, this order will not entitle the State of Andhra Pradesh to institute fresh complaint(s) against the respondent on the same cause of action or in a related issue.”

28. From plain reading of the aforesaid observation made by the Hon’ble Supreme Court, firstly, the Hon’ble Supreme Court wanted the High Court to scrutinize the facts and reach to a conclusion whether there is any necessity in continuing with the criminal proceedings, secondly, whether the continuation of the criminal proceedings will at all serve the administration of criminal justice and, thirdly, the entire exercise should not be in futility.

29. In addition to the aforesaid directions, there was also a very clear unambiguous and a categorical mandate by the Hon’ble Supreme Court restraining the State Government from instituting fresh complaint against the petitioners in respect of: (a) the same cause of action and (b) in a related issue. This in other words also means that the High Court in the course of its scrutiny has to peruse only the facts and records which have come before the High Court from the proceedings drawn till now. If we read the order of the Hon’ble Supreme Court dated 09.04.2024, particularly the contents of paragraph No.8, the reason to remand back the matter was also ensuring that all the claims of any bona fide investor should not go unattended or unsatisfied. This was also to ensure that the petitioners did not have any mala fide intention against any of

the depositors' deposit is concerned and that the petitioners are still serious in meeting any claim that is raised by any of the depositors and, for which also, sufficient security was ensured to be made available by the petitioners.

30. It is at this situation that petitioner No.2, the person who was, in fact the person entirely responsible in operating the business till 08.06.2024 on which date he had expired. In the given circumstances, the question is also, can anyone else be substituted in place of petitioner No.2 in the original criminal case i.e. C.C.No.540 of 2008.

31. True it is that Chekuri Kiran Rao had got himself substituted in place of the deceased petitioner No.2 so far as contesting the instant two criminal petitions. What is more relevant is, what happens to the criminal case C.C.No.540 of 2008 where there has been no steps taken by the petitioners to get themselves substituted. Neither the complainant, nor the State Government have taken any steps to replace the deceased petitioner No.2 in the criminal case for its continuation to a logical end.

32. In the given facts, if the Government, on one hand or the complainant on the other hand having not taken any steps for substitution and if the concerned Court proceeds with the criminal case it would be as if the criminal case is being proceeded against a dead person.

33. Another aspect which needs consideration at this juncture is, whether in the complaint or whether there is any material available on record to show that other than the deceased, anyone else was also equally sharing the burden in the operation of business. In other words, what is also needed to be appreciated is “as to whether the name of the legal heirs of the deceased has been mentioned anywhere in the records showing them also to be involved in the operation of business at the relevant point of time.

34. In the case of **S.K. Alagh vs. State of U.P.**¹, the Hon’ble Supreme Court in paragraph No.19, has held as under:

“19. ...If and when a statute contemplates creation of such a legal fiction, it provides specifically therefor. In absence of any provision laid down under the statute, a Director of a company or an employee cannot be held to be vicariously liable for any offence committed by the company itself. (See Sabitha Ramamurthy v. R.B.S. Channabasavaradhya [(2006) 10 SCC 581 : (2007) 1 SCC (Cri) 621] .)”

35. In the case of **Sham Sunder vs. State of Haryana**², the Hon’ble Supreme Court in paragraph No.9, has held as under:

“9. But we are concerned with a criminal liability under penal provision and not a civil liability. The penal provision must be strictly construed in the first

¹ [(2008) 5 SCC 662 : (2008) 2 SCC (Cri) 686]

² [(1989) 4 SCC 630 : 1989 SCC (Cri) 783]

place. Secondly, there is no vicarious liability in criminal law unless the statute takes that also within its fold.....”

36. The Madras High Court in the case of **Devendra Pundir vs. Rajendra Prasad Maurya**³, has concluded thus:

“7. This Court is of the considered view that the above proposition of law laid down by the Hon'ble Apex Court in the decision of Fine Tubes [(2007) 5 SCC 103 : (2007) 2 SCC (Cri) 455] is squarely applicable to the facts of the instant case. Even in this case, as already pointed out, the first accused is admittedly the sole proprietrix of the concern, namely, ‘Kamakshi Enterprises’ and as such, the question of the second accused to be vicariously held liable for the offence said to have been committed by the first accused under Section 138 of the Negotiable Instruments Act not at all arise.”

37. Vicarious liability means making one person liable for the action or inaction of another on the basis of their relationship with each other. Under the Indian Penal Code, 1860, a person in some cases can be made vicariously liable for the action of another, such as in cases relating to Sections 149, 154, 155, 156, etc. In criminal law in India, there is no concept of strict vicarious liability except where it is so provided under law or by judicial precedents. Thus, accountability for a criminal action is based upon a factual situation or incident *prima facie* established at the initial stage of criminal proceedings and proving it beyond doubt when it concludes.

³ 2008 Cri LJ 777 (Mad)

38. The law is well-settled that a proprietary concern is synonymous to the proprietor. The concept of vicarious liability was introduced in the penal statutes, like the Negotiable Instruments Act to make the Directors, Partners or other persons, in-charge of and control of the business of the company or otherwise responsible for its affairs; the company itself being a juristic person.

39. A proprietary concern, however, stands absolutely on a different footing. A person may carry on business in the name of a business concern, but he being proprietor thereof, would be solely responsible for the conducting of its affairs. A proprietary concern is not a Company.

40. The Hon'ble Supreme Court in the case of **Manual vs. State of Kerala, represented by Public Prosecutor and Another**⁴ has held as under:

7. Vicarious liability is a form of a strict, secondary liability that arises under the common law doctrine of agency; respondent superior - the responsibility of the superior for the acts of their subordinate, or, in a broader sense, the responsibility imposed on one person for the wrongful actions of another person. Such a liability arises usually because of some or the other legal relationship between the two. This often occurs in the context of civil law—for example, in employment cases. In a criminal context, vicarious liability assigns guilt, or criminal liability, to a person for wrongful acts committed by someone else.

8. Generally, person can be criminally liable for the acts of another if they are a party to the offence. Now, strict vicarious criminal liability is somewhat of an

⁴ 2022 SCC Online Ker 990

exception to the general rule of direct personal culpability and is a modern development through statutory provisions. Such criminal vicarious liability can be attributed only if it is provided under a particular Statute. Penal Code, 1860 (for short, 'the IPC') makes a departure from the general rule in few cases, on the principle of respondent superior. In such a case, a master is held liable under various Sections of the IPC for acts committed by his agents or servants. Section 149 of IPC provides for vicarious liability. It states that if an offence is committed by any member of an unlawful assembly in prosecution of a common object thereof, or such as the members of that assembly knew that the offence to be likely to be committed in prosecution of that object, every person who, at the time of committing that offence, was member, would be guilty of the offence committed.

41. Recently, the Hon'ble Supreme Court in the case of **Vinayak Purshottam Dube vs. Jayashree Padamkar Bhat**⁵ held at paragraph No.27 as under:

"27. On a reading of the above, it is clear, when it comes to personal rights (as opposed to a proprietary rights) are rights arising out of any contractual obligations or the rights that relate to status. Such personal rights are not transferable and also not inheritable. Correspondingly, Section 306 of the Succession Act, 1925 (for short "the 1925 Act") applies the maxim "actio personalis moritur cum persona" (a personal right of action dies with the person) which is limited to a certain class of cases and would apply when the right litigated is not heritable. By the same logic, a decree-holder cannot enforce the same against the legal representatives of a deceased judgment-debtor unless the same survives as against his legal representatives."

⁵ (2024) 9 SCC 398

42. Again, very recently, the Delhi High Court in the case of Mehta **Prashantbhai Mukundray Partner vs. Magnifico Minerals Pvt. Ltd.**⁶ in paragraph No.9 has held as under:

“9. It is well settled law that a sole proprietor firm has no separate identity and the sole proprietor will be responsible for the same. The Hon'ble Supreme Court in Raghu Lakshminarayanan v. Fine Tubes had observed and held as under:—

“9. The description of the accused in the complaint petition is absolutely vague. A juristic person can be a company within the meaning of the provisions of the Companies Act, 1956 or a partnership within the meaning of the provisions of the Partnership Act, 1932 or an association of persons which ordinarily would mean a body of persons which is not incorporated under any statute. A proprietary concern, however, stands absolutely on a different footing. A person may carry on business in the name of a business concern, but he being proprietor thereof, would be solely responsible for conduct of its affairs. A proprietary concern is not a company.”

43. In the present case, as per the complaint, the accused was the sole proprietor of the propriety concern, and according to accused, he is the Karta of the HUF (Hindu Undivided Family). In both scenarios, the criminal proceedings naturally abate upon the death of the accused during the pendency of the trial. It was contended that criminal proceeding initiated against the sole accused cannot transfer criminal liability to the next kin. This is particularly clear since

⁶ 2025 SCC OnLine Del 2514

from the beginning until his death, he remained the sole proprietor of the proprietary concern and none of his family members were involved in the business. From the contents of the complaint also it is not reflected, nor were any names added to the proceedings at any point of time. However, any financial obligations which remained unfulfilled would be subject to civil proceedings, leaving the case open for recovery of dues through civil legal mechanisms. When an accused person dies while criminal proceedings are still pending, the case against them comes to an end. Under criminal law, liability for criminal acts is personal and does not pass on to others. The principle of *actus non facit reum nisi mens sit rea* — meaning an act alone does not make one guilty unless done with a guilty mind — underscores the personal nature of criminal responsibility. Once the accused is no longer alive, the Court cannot continue the trial, as punishment or exoneration can only be applied to a living individual.

44. The death of the accused typically results in the abatement of criminal proceedings. This applies to both trial and appeal stages, except where specific laws provide otherwise. For example, under Indian criminal law (such as the Code of Criminal Procedure, 1973), if the accused dies during trial, the case is closed and no verdict is issued. In case of an appeal against conviction, some Courts may allow the legal heirs to continue the appeal for the limited purpose

of clearing the deceased's name, especially when the conviction carries reputational consequences.

45. Criminal liability does not transfer to the next of kin or any member of the family. Unlike civil cases, where property or financial liability may be inherited, criminal proceedings are directed only at the person accused of committing the offense. However, if there are allegations that involve other individuals (including family members), those cases will proceed independently.

46. It in the aforesaid backdrop that we need to appreciate the contentions of the party-in-person, who in his submissions primarily agitated at the nature of the offence said to have been committed by the deceased-petitioner No.2, Sri Ramoji Rao. He contended that irrespective of whether petitioner No.1 is a 'HUF' or is a Proprietorship, merely because petitioner No.2, Sri Ramoji Rao, who was in fact the person who was operating the business, has since expired, that by itself would not abate the criminal proceedings as it could still continue against petitioner No.1-Firm. He further contended that even if petitioner No.2, Sri Ramoji Rao, has since admittedly expired, but the provisions of Section 45 of the Reserve Bank of India Act would still remain in force to be scrutinized as

to whether the petitioners have committed a default as is stipulated under the Reserve Bank of India Act.

47. Similar was the line of argument advanced by the learned Senior Counsel, Mr. L. Ravichander, representing respondent No.2 (Reserve Bank of India), categorically contending that so far as the Reserve Bank of India is concerned, they are only concentrating upon the provisions of Chapter III-C which deals with prohibition of acceptance of deposits by unincorporated bodies. According to respondent No.2-Reserve Bank of India, it is under this Chapter as the petitioners violated the provisions of RBI Act thereby accepting deposits from investors in contravention to Section 45S. When this fact came to the notice of respondent No.2-Reserve Bank of India, they immediately took steps for prosecuting the petitioners for the said violation.

48. He further contended that so far as the Reserve Bank of India is concerned they are concentrating on the deposit side and contended that if there are beneficiaries who have not been repaid their money, the liability would also remain against the petitioner. According to him, since the business is continuing, the liability part would not cease. That whether there is vicarious liability and whether such vicarious liability shifts to the next generation or on to the present persons who are operating the business are all matter of facts to

be looked into by the Trial Court. Therefore, at this juncture it would not be appropriate for the High Court to close the proceedings holding it to have abated.

49. He further contended that it is not a case where this High Court has to decide only so far as the abatement of the proceedings on the death of the petitioner No.2, Sri Ramoji Rao, but also the question as to whether when an 'HUF' is sued, would the case against him would abate or not.

50. In view of the aforesaid contentions and the deliberations made by this Bench in the preceding paragraphs, we cannot brush aside the categorical stand taken by the two Governments, viz., Government of Telangana and the Government of Andhra Pradesh.

51. Learned Government Pleader representing the State of Telangana had in no uncertain terms made a statement that for the reason that there is no vicarious liability under the criminal proceedings it could be passed on to the next generation, the criminal case lodged against the petitioners upon the death of the main accused, viz., petitioner No.2, Sri Ramoji Rao, the entire case would stand abated and rather the instant criminal case also has to be closed as having become infructuous on abatement.

52. If not identical, similar stand has been taken by the Government of Andhra Pradesh which had also in very categorical terms has made a statement that a bare perusal of the plaint and the allegations and contentions raised therein would reveal that there is no allegation against any other person in the family of the deceased petitioner No.2 who is said to have been involved in the operation of the business then or had either directly or indirectly involved in the commission of the offence contrary to the provisions of the Reserve Bank of India Act. In addition to the aforesaid, learned counsel representing the State of Andhra Pradesh had also answered the anxiety expressed by the Hon'ble Supreme Court while remanding the matter by stating that in the light of the death of petitioner No.2, Sri Ramoji Rao, the continuation of the prosecution itself henceforth would be a futile exercise.

53. At this juncture, if we look into the observations made by the Hon'ble Supreme Court while remanding the matter it would reveal that in fact the Hon'ble Supreme Court did not hold the earlier finding of the learned single Bench in its earlier order dated 31.12.2018 quashing the entire criminal case to be bad in law or to have founded to be contrary to facts and evidence. Rather, the Hon'ble Supreme Court has set aside the said order on technical ground of having got the matter decided without hearing the Reserve Bank of India and also without hearing any of the bona fide investors who still have any grievance

of non-payment of their deposits once made and it was only for these two reasons the matter was remanded to the High Court and after hearing these two persons, viz., the Reserve Bank of India on the one hand and the investors / depositors whose claim is still to be settled on the other, the High Court may take an appropriate decision by holding whether the criminal proceedings have to continue or it will be an exercise in futility. This is amply evident from the contents of paragraph Nos.9 and 10 of the order passed by the Hon'ble Supreme Court while remanding the matter to the High Court. It is in this backdrop we need to look into the contentions raised by the learned Senior Counsel representing the Reserve Bank of India, the learned counsel representing the State of Andhra Pradesh as also the State of Telangana and the party-in-person. The contention of the learned Senior Counsel for the Reserve Bank of India and the party-in-person was that, what they are concerned more is in respect of the so-called violation of the provisions of the Reserve Bank of India on the one hand also in respect of any depositor who has been left out from being paid of any of the investment or deposits made by them at that point of time. As regards the notice to the depositors is concerned, in spite of notice there has been none who has come up claiming that in spite of efforts made they have not got the return of the investment made on its maturity.

54. However, what is noteworthy is that even if there would have been anybody who is unpaid there is a categorical statement made by each of the learned Senior Counsel representing the petitioners that there is enough of funds in the Escrow account kept reserved and even today if there is anybody whose investment has not been returned yet they can still approach the newly added petitioner No.2 who is presently taking care of operation of the business and he undertakes that the entire amount payable to such persons would be forth released from the escrow account.

55. All said and done, in the absence of there being no allegation against any of the family members of the deceased petitioner No.2, Sri Ramoji Rao, in spite of they also being involved along with the deceased petitioner No.2, Sri Ramoji Rao, in the commission of violation under the Reserve Bank of India Act and also in the light of the stand taken by the Government of Andhra Pradesh as also the Government of Telangana that they do not intend to prosecute any of the successors of the deceased-petitioner No.2; and lastly, in the absence of any substitution petition moved by the prosecuting agency in the criminal case, this Bench is of the considered opinion that the complaint case has to be declared to have been abated and in further continuation of the said proceedings particularly in the backdrop of deceased petitioner No.2, Sri Ramoji Rao, the entire criminal proceedings and its continuation would be an exercise in futility.

56. Therefore, for all the aforesaid reasons, I.A.No.1 of 2025 in Criminal Petition No.6280 of 2011 which is filed raising a preliminary issue on the continuation of criminal proceedings in the light of the death of petitioner No.2 deserves to be and is accordingly allowed. Consequently, the Criminal Petition No.5971 of 2011 and Criminal Petition No.6280 of 2011 seeking quashment of the criminal complaint case No.540 of 2008 pending on the file of I Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, would also stand allowed by holding that the criminal prosecution case against the petitioners is ordered to have abated. No costs.

57. As a sequel, miscellaneous petitions pending if any, shall stand closed.

P.SAM KOSHY, J

K.SUJANA, J

Date: 04.08.2025
GSD / AQS / NDR