CNR NO.MHCC02-006605-2024

IN THE COURT OF SPECIAL JUDGE,
(CONSTITUTED UNDER THE PREVENTION OF CORRUPTION ACT, 1988)
FOR GREATER BOMBAY AT MUMBAI

ACB MISCELLANEOUS APPLICATION NO. 603 OF 2024

IN THE MATTER BETWEEN

Sapan Shrivastava
Male, Age 47,
Occupation: Media reporter (Legal)
D 102, Natraj Darshan, Ganesh
Nagar Chowk, Dombivali West,
Thane 421 202
Cell 9702859636,
Email indiartinews@gmail.com ...Complainant

Versus

1. Madhabi Puri Buch
Age 55 Approx, Female,
Occupation: Public Servant,
Chairperson SEBI, G BLOCK,
BKC, Bandra,
Mumbai- 51

2. Ashwani Bhatia
Age 55 Approx, Male,
Occu: Public Servant,
WHOLE TIME MEMBER SEBI,
G BLOCK, BKC,
Bandra, Mumbai – 51.
ashwani.bhatia@sebi.gov.in

3. Ananth Narayan G
Age 55 Approx. Male,
Occp: Public Servant,
WHOLE TIME MEMBER SEBI,
G BLOCK BKC, Bandra,
Mumbai- 51
ananthg@sebi.gov.in

4. Kamlesh Chandra Varshney
Age 55 Approx, Male,
Occp: Public Servant,
WHOLE TIME MEMBER SEBI,
G BLOCK BKC, Bandra,
Mumbai- 51
kamlesh.varshney@sebi.gov.in

5. Pramod Agarwal
Age 60 Approx, Male,
Occp: Chairman and Public Interest
Directors (BSE)

BSE India,
Floor 25, P J Towers, Dalal Street,
Mumbai – 400001.

6. Sundararaman Ramamurthy
Age 60 Approx, Male,
Occupation: MD and CEO (BSE)
BSE India,
Floor 25, P J Towers, Dalal Street,
Mumbai 400001.

7. State of Maharashtra
(Through Addl CP, ACB), Mumbai.

8. Union of India
(Through Joint Director, CBI) Mumbai. ...Accused

Sapan Shrivastava, Complainant in-person

Ld. APP Mr. Prabhakar Tarange along with Addl. P.P. Mrs. Rajlaxmi Bhandari for State.

CORAM : H.H. THE SPECIAL JUDGE (ACB)
S. E. Bangar (Court Room No.46)
DATE : 1st MARCH, 2025.

<u>O R A L O R D E R</u>

1. **Introduction and Background**

1. The present application has been filed by the complainant under Section 156(3) of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") seeking directions to the concerned

police station for the registration of an FIR and investigation into alleged offenses committed by the proposed accused, involving large-scale financial fraud, regulatory violations, and corruption.

2. The allegations pertain to the fraudulent listing of a company on the stock exchange with the active connivance of regulatory authorities, particularly the Securities and Exchange Board of India (SEBI), without compliance under the SEBI Act, 1992 and rules and regulations thereunder. The complainant contends that SEBI officials failed in their statutory duty, facilitated market manipulation, and enabled corporate fraud by allowing the listing of a company that did not meet the prescribed norms.

3. It is submitted that despite the complainant having approached the concerned police station and regulatory bodies on multiple occasions, no action has been taken, necessitating judicial intervention under Section 156(3) Cr.P.C..

2. **Specific Allegations of the Complainant**

4. The complainant has placed on record substantial material to support the allegations, including:

- Written complaints lodged with SEBI, the police, and other authorities, with their acknowledgments.

- Documents revealing procedural lapses and non-compliance in the IPO process, leading to an irregular listing of the company.

- Regulatory filings and stock market reports indicating artificial inflation of share prices and market manipulation.

- Correspondence from whistleblowers within SEBI, indicating undue favoritism towards the accused company.

- Financial reports, audit documents, and investor grievances, demonstrating large-scale fraud and public deception.

5. The complainant specifically alleges:

- The SEBI permitted the listing of the accused company despite its failure to comply with essential regulatory norms, including disclosure requirements and due diligence procedures mandated under the SEBI Act, 1992, SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, and SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018.

- The accused persons engaged in round-tripping, insider trading, and price manipulation, misleading investors into believing the company was financially sound.

- Certain SEBI officials colluded with the accused company and failed to exercise regulatory oversight, thereby committing acts of criminal misconduct under the Prevention of Corruption Act, 1988.

- The company's promoters siphoned off public funds post-listing, and the SEBI failed to take preventive measures despite multiple red flags.

- The inaction by the police and regulatory authorities amounts to dereliction of duty, necessitating a court-monitored investigation.

3. **Legal Provisions and Case Law Analysis**

6. The Court has examined the legal provisions applicable to the present case, along with the judicial precedents relied upon by the complainant:

A. Applicability of Section 156(3) Cr.P.C.

7. Section 156(3) of the Cr.P.C. empowers the Special Judge to direct the police to register an FIR if the allegations disclose the commission of a cognizable offense.

8. The Hon'ble Supreme Court in **Lalita Kumari v. Govt. of U.P. & Ors.** (2014) 2 SCC 1 has held:

"Registration of an FIR is mandatory under Section 154 Cr.P.C. if the information discloses a cognizable offense. Police officials cannot refuse to register an FIR on the grounds of preliminary inquiry."

9. The Supreme Court in **Priyanka Srivastava & Anr. v. State of U.P.** (2015) 6 SCC 287 emphasized:

"An application under Section 156(3) Cr.P.C. must be supported by an affidavit ensuring due diligence. The Magistrate must be satisfied that a prima facie case exists before directing an investigation."

B. **Offenses under the Indian Penal Code, 1860**

10. The complainant alleges violations of the following provisions of the IPC:

- Section 406 IPC – Criminal breach of trust.
- Section 409 IPC – Criminal breach of trust by a public servant or agent.
- Section 420 IPC – Cheating and dishonestly inducing delivery of property.
- Section 467 IPC – Forgery of valuable security.
- Section 471 IPC – Using as genuine a forged document.

- Section 120B IPC – Criminal conspiracy.

C. **Offenses under the Prevention of Corruption Act, 1988**

11. The allegations against SEBI officials attract the following provisions:

- Section 7 – Public servant taking gratification.

- Section 13(1)(d) – Criminal misconduct by a public servant.

- Section 19 – Sanction for prosecution (to be considered subsequently).

12. The Hon'ble Supreme Court in **CBI v. Ramesh Gelli** (2016) 3 SCC 788 held:

"Private persons can be prosecuted under the Prevention of Corruption Act if they conspire with public servants in the commission of offenses."

D. **Violations under the SEBI Act, 1992**

13. The complainant's allegations establish market manipulation and regulatory failure, violating:

- Section 12A – Prohibition of manipulative and deceptive practices.

- Section 15HA – Penalty for fraudulent trade practices.

- Section 24 – Offenses punishable with imprisonment.

14. In **Sahara India Real Estate Corp. Ltd. v. SEBI** (2012) 10 SCC 603, the Supreme Court held:

“Market regulators have the power to initiate criminal action against violators engaged in financial fraud or misrepresentation.”

4. **Observations of the Court**

15. Upon reviewing the material on record, this Court finds:

- The allegations disclose a cognizable offense, necessitating an investigation.

- There is prima facie evidence of regulatory lapses and collusion, requiring a fair and impartial probe.

- The inaction by law enforcement and SEBI necessitates judicial intervention under Section 156(3) Cr.P.C.

16. The Hon’ble Supreme Court in State of Haryana v. Bhajan Lal (1992) Supp (1) SCC 335 laid down guidelines for mandatory registration of FIRs, holding that:

“If a complaint discloses a cognizable offense, registration of FIR is mandatory, and failure to do so amounts to a violation of statutory duty.”

5. Order

17. Considering the gravity of allegations, applicable laws, and settled legal precedents, this Court deems it appropriate to direct an investigation under Section 156(3) Cr.P.C.

Accordingly, it is ordered as follows:

i) The application under Section 156(3) Cr.P.C. is allowed.

ii) The concerned Anti Corruption Bureau, Worli, Mumbai Region, Mumbai is directed to register an FIR under the relevant provisions of IPC, Prevention of Corruption Act, SEBI Act, and other applicable laws.

iii) The investigation shall be monitored by this Court.

iv) A status report shall be submitted within 30 days.

v)   ACB Miscellaneous Application No.603/2024 stands disposed of accordingly.

(Pronounced in open Court on this 1st day of March, 2025)

SHASHIKANT EKNATHRAO BANGAR

Digitally signed by SHASHIKANT EKNATHRAO BANGAR
Date: 2025.03.01 17:54:04 +0530

Date : 01.03.2025

(Shashikant Eknathrao Bangar)
Special Judge under the Prevention of Corruption Act, 1988, Mumbai

Dictated on : 01.03.2025
Transcribed on : 01.03.2025
HHJ signed on : 01.03.2025

"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER."	
01.03.2025/5.52 p.m.	(Mr. Subhash S. Poul)
UPLOAD DATE AND TIME	NAME OF STENOGRAPHER (Grade-1)

Name of the Judge (With Court room no.)	Shri S.E. Bangar (C.R. No.46)
Date of Pronouncement of JUDGMENT/ ORDER	01.03.2025
JUDGMENT/ORDER signed by P.O. on	01.03.2025
JUDGMENT/ORDER uploaded on	01.03.2025