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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.370 OF 2024

Rajiv Ranjan Singh,
Age 35 years, Occupation Unemployed
Indian Inhabitant, having residence at
E-2004, Aparna Sarovar, Nallagandla,
Lingampalli, Serilingampally,
K.V. Rangareddy, Telangana – 500 019 … **Applicant**

V/s.

1. **Securities & Exchange Board of India**,
   A statutory Body established under the provisions of the Securities and Exchange Board of India Act, 1992, having its Head Office at Plot No.C 4-A, G Block, SEBI Bhavan, Bandra Kurla Complex, Bandra East, Mumbai – 400 050

2. **The State of Maharashtra** … **Respondents**

Mr. Ashok Singh with Mr. Sameer Bothre i/by Mr. Arun Nile for the applicant.

Ms. Anubha Rastogi with Mr. Aditya Joshi for respondent No.1-SEBI.

Mr. Sagar R. Agarkar, APP for respondent No.2-State.

CORAM : AMIT BORKAR, J.

RESERVED ON : SEPTEMBER 10, 2025

PRONOUNCED ON : SEPTEMBER 11, 2025

JUDGMENT:

1. The applicant has challenged the order dated 18 April 2025 by which his application for discharge under Section 227 of the Code of Criminal Procedure has been rejected. The applicant is arraigned as Accused No. 5.

2. The prosecution case, in brief, is that the complaint has been filed under Section 24(1) read with Section 27, Section 12A and Sections 26 and 26B of the Securities and Exchange Board of India Act, 1992. It is also based on the SEBI (Stock Brokers) Regulations, 1992 and the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, particularly Regulation 4(1) and 4(2)(m), read with various circulars issued under Section 11 of the SEBI Act, 1992, and further read with Sections 193 and 200 of the Code of Criminal Procedure, 1973.

3. Accused No.1, Karvy Stock Broking, was registered as a stockbroker and as a Depository Participant with SEBI. It was also registered with NSE, BSE, NSDL, and CDSL. Accused No.2 was the Managing Director and promoter of the company. The present applicant, Accused No.5, was its Chief Executive Officer. All these persons were in charge of and responsible for the conduct of the business of Accused No.1 at the relevant time when the alleged offence took place.

4. It is alleged that Accused No.1 unauthorizedly pledged and misused its clients' securities and funds. Such acts were in clear violation of the circulars issued by SEBI from time to time. The

company failed to exercise due skill, care, and fairness towards its clients, indulged in malpractices, and thereby violated statutory requirements under Clauses A(1) to A(5) of the Code of Conduct under Schedule II read with Regulation 9 of the SEBI (Stock Brokers) Regulations, 1992. The further allegation is that Accused No.1, being an intermediary, entered into transactions including pledging of securities belonging to its clients without their knowledge or instructions, and misused and diverted the funds so received. Such acts were in breach of the fiduciary capacity in which those securities were held.

5. On these allegations, it is contended that the accused persons dealt with securities in a manipulative, fraudulent, and unfair manner, attracting Regulation 4(1) and 4(2)(m) of the PFUTP Regulations. In short, the prosecution alleges violation of the following provisions:

(a) Clauses A(1) to A(5) of the Code of Conduct under Schedule II read with Regulation 9 of the SEBI (Stock Brokers) Regulations, 1992, along with circulars issued under Section 11(1) of the SEBI Act, 1992, such as:

(i) SEBI Circular No. SMD/SED/CIR/03/23321 dated 18 November 1993;

(ii) SEBI Circular No. SEBI/HO/MIRSD/MIRSC2/CIR/P/2016/95 dated 26 September 2018;

(iii) SEBI Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated 22 June 2017;

(iv) SEBI Circulars CIR/HO /MIRSD /DOP/CIR/P/2019/75 dated 20 June 2019 and SEBI/HO/MIRSD/DOP/CIR/P/2019/95 dated 29 August 2019;

(v) SEBI Circular No. SEBI/MIRSD/SE/Cir-19/2009 dated 3 December 2009.

(b) Regulation 4(1) and 4(2)(m) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003; and

(c) Section 12A of the SEBI Act, 1992.

6. The above offences are punishable under Section 24(1) read with Section 27 of the SEBI Act, 1992.

7. These allegations, according to the prosecution, are supported by documentary material, namely: (a) SEBI inspection report with annexures; (b) Various bank account and DP account statements, and their analysis; (c) Preliminary report of NSE; (d) Final report of NSE; (e) Forensic Audit Report prepared by the Auditor; and (f) Records and correspondence with the accused company.

8. The scale of the alleged offences is assessed at about Rs. 2,700 crore, being the value of client securities unauthorizedly pledged by the company in violation of law. It is alleged that the funds raised were utilized by the company and its connected entities.

9. On this basis, a complaint was filed before the Trial Court seeking initiation of prosecution against Accused No.1 company and the persons in charge of its affairs, including the applicant who was then serving as its Chief Executive Officer.

10. Learned Advocate for the applicant submitted that the allegations in the complaint have already been adjudicated by the

Whole Time Member of SEBI by order dated 20 April 2023. In that order, no penalty was imposed and no adverse direction was issued against the applicant. According to him, this amounts to exoneration of the applicant on merits. He argued that the learned Special Judge failed to appreciate that the applicant was neither in de facto control nor a key managerial person in charge of the business of KSBL. Hence, he cannot be held liable for prosecution under Section 27(2) of the SEBI Act. He relied upon the judgment of the Supreme Court in *Radheshyam Kejriwal vs. State of West Bengal & Ors., (2011) 2 SCC 943*, particularly paragraph 19(vii), which states:

"In case of exoneration on merits where the allegations are found to be not sustainable at all and the person is held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases."

11. On this basis, he submitted that the Special Judge ought to have discharged the applicant, especially in view of the specific observations made by the Adjudicating Officer in paragraphs 109 to 112, 122 to 125, and 137 of the adjudication order. In support, he also relied upon the judgment of the Supreme Court in *J. Sekar vs. Directorate of Enforcement, (2022) 7 SCC 370*.

12. In reply, learned Advocate for respondent No.1–SEBI submitted that the said paragraphs of the adjudication order do not exonerate the applicant on merits. Mere absence of penalty or restraint order cannot amount to exoneration within the meaning of clause (vii) of paragraph 19 of the judgment in *Radheshyam*

Kejriwal. She pointed out that the Adjudicating Officer's observations were confined to specific aspects. For example, in paragraph 123, he noted that there was no evidence of any profit made by the applicant, and therefore it appeared unlikely that he would involve himself in such a design. The Adjudicating Officer also observed that pledging of client securities had started much before the applicant became CEO. However, there is no finding that the applicant did not violate the regulatory provisions that constitute the offence under Section 27(2) of the SEBI Act. She further pointed out paragraph 126 of the adjudication order, which records that KSBL itself chose not to take action against the applicant even after he purportedly admitted wrongdoing involving misappropriation of client funds and securities worth thousands of crores. Drawing attention to paragraph 127, she argued that the Adjudicating Officer found from evidence on record that as an employee of KSBL, the applicant had actively participated in the asset collection drive. Through this drive, securities were collected from clients by promising them interest in exchange for lending their securities. The Adjudicating Officer also noted that the applicant was a professional in the securities market for more than two decades. He was expected to know the recognized platform for securities lending and borrowing available in stock exchanges. In such a situation, he should have raised alarm about large-scale borrowing of securities and warned the management of its regulatory consequences. Instead, he failed to make any inquiry into the purpose or end-use of such borrowing. This shows a lack of diligence expected from a senior official like

him in a corporate brokerage firm of KSBL's size.

13. She further submitted that the reasons assigned by the Special Court are correct. The applicant was working as Chief Executive Officer and was therefore responsible for the affairs of the company. Under Section 27(1) of the SEBI Act, every person who, at the time the offence was committed, was in charge of and responsible for the conduct of the business of the company is deemed guilty and liable for prosecution. The applicant, being CEO, was responsible for day-to-day management and cannot escape liability.

14. In support, she relied upon the judgments of the Supreme Court in *Air Customs Officer, IGI New Delhi vs. Pramod Kumar Dhamija, (2016) 4 SCC 153, and Videocon Industries Limited vs. State of Maharashtra, (2016) 12 SCC 315*. In *Pramod Kumar Dhamija*, it was held that exoneration does not bar prosecution if it is not on merits or if relevant material was not considered. The Court observed that the accused in that case was not found completely innocent. She therefore submitted that the order of the Special Court rejecting the discharge application is proper, since a prima facie case has been made out against the applicant.

15. I have considered the submissions advanced on behalf of the applicant and respondent (SEBI). I have also perused the adjudication order relied upon by the applicant and the reasons assigned by the learned Special Judge.

16. The argument of the applicant rests mainly on the plea that the adjudication order dated 20 April 2023 amounts to his

exoneration on merits.

17. At this stage, it is necessary to look at the settled position of law on how findings in adjudication or departmental proceedings affect criminal prosecution. The Constitution Bench of the Supreme Court in *Collector of Customs v. L.R. Melwani* (AIR 1970 SC 962) had considered whether a finding given by the Collector of Customs under the Sea Customs Act could act as a bar to criminal prosecution by invoking Article 20(2) of the Constitution or by applying the rule of issue estoppel. The Court held that unless there has been a proper trial before a competent criminal court resulting in acquittal, the rule of *autrefois acquit* (meaning that no person can be tried twice for the same offence) cannot apply. It was also clarified that proceedings before the Collector of Customs are not criminal trials. Therefore, any finding given by the Collector cannot be treated as an acquittal binding on the prosecution.

18. This principle has been followed in later judgments. In *K.G. Premshanker v. Inspector of Police* (2002) 8 SCC 87, the Supreme Court held that judgments in civil or other proceedings may be relevant under Sections 40 to 43 of the Indian Evidence Act. However, except for judgments falling under Section 41 (which are judgments in rem), such judgments are not conclusive. The Court further observed that there cannot be a fixed rule to apply in all cases, and the law itself contemplates the possibility of conflicting findings between civil and criminal courts.

19. The same issue came up again before a three-Judge Bench in *Radheshyam Kejriwal (Supra)*. The majority held that adjudication proceedings and criminal prosecution are independent of each other. A finding in adjudication does not bind the criminal court. However, the Court drew an important distinction. Where a person is exonerated in adjudication on technical grounds, or because no penalty was imposed, criminal prosecution can continue. But, if in adjudication proceedings a clear finding is recorded that the allegations were wholly unsustainable and the person is innocent, then criminal prosecution on the same set of facts cannot be allowed to continue.

20. It is thus clear that exoneration in departmental or regulatory proceedings will bind criminal prosecution only in very limited situations. Three conditions must be satisfied. First, the adjudicating authority must have examined all the facts and evidence in detail and given a clear finding. An order passed only on technicalities like limitation or jurisdiction cannot bar prosecution. Second, there must be a clear conclusion that the allegations were wholly baseless or not proved at all. Third, the order must contain a clean declaration of innocence, holding the person not guilty of the misconduct. A mere absence of penalty or grant of benefit of doubt does not amount to exoneration on merits.

21. Applying these principles to the present case, it is seen that the adjudication order dated 20 April 2023 does not contain any detailed finding of innocence. On the contrary, paragraphs 126 and 127 of the order note that the applicant actively participated in the

asset collection drive and, as Chief Executive Officer, failed to exercise the diligence expected of him. These are adverse findings against the applicant and rule out any claim of complete exoneration. The Adjudicating Officer has not held that the allegations against the applicant were baseless or unsustainable. The order only refrains from imposing penalty but does not absolve him of responsibility under the SEBI framework. The order also records that irregular pledging of client securities had taken place and that the applicant, being a senior professional, should have raised concerns. Therefore, the allegations remain prima facie sustainable. Lastly, the order does not contain any clean declaration of innocence. It does not state that the applicant had no role in the misconduct. Instead, it reflects negligence and lack of diligence on his part in discharging his duties as a person in charge of the company's affairs.

22. In light of the principles laid down in *L.R. Melwani*, *K.G. Premshanker*, and *Radheshyam Kejriwal*, it is clear that the adjudication order cannot operate as a bar to the present prosecution under Section 27(1) of the SEBI Act. On the contrary, the complaint discloses prima facie material to proceed against the applicant, and the findings in the adjudication order reinforce his responsibility as Chief Executive Officer and as a person in charge of the company's business at the relevant time.

23. The main argument of the applicant is that he has been exonerated of all wrongdoings in the adjudication proceedings. However, when the complaint is examined, it is clear that the offence alleged against the applicant is under Section 27(1) of the

SEBI Act, 1992. This provision makes it clear that every person who, at the time when the offence was committed, was in charge of and responsible to the company for the conduct of its business, shall be treated as guilty of the offence and shall be liable to be punished.

24. Therefore, under Section 27(1) of the SEBI Act, it is not necessary to show that the officer himself committed the wrongful act. The liability arises simply because the person was in charge of and responsible for the conduct of business of the company when the offence took place. The role of the applicant as Chief Executive Officer, and his participation in the affairs of the company, is evident even from the adjudication order itself. Though no penalty was imposed, the order records that the applicant was a senior officer of the company, had taken part in the asset collection drive, and failed to act with the diligence expected from a person holding his position. These observations do not amount to exoneration; rather, they indicate responsibility.

25. In fact, in the present case, the applicant was the Chief Executive Officer at the relevant time. The adjudication order itself records that he actively participated in the company's activities and failed to take the caution expected from him. These findings support, and do not negate, the statutory presumption of liability under Section 27(1) of the SEBI Act.

26. Thus, the contention that the applicant stands exonerated is without any merit. Exoneration in regulatory proceedings can bar prosecution only where there is a categorical finding of innocence

on merits. That is not the situation here. On the contrary, the findings point to lapses attributable to the applicant. Therefore, prima facie liability under Section 27(1) stands attracted.

27. It is also well settled that at the stage of discharge under Section 227 of the Code of Criminal Procedure, the Court is not expected to go into the details of the evidence or conduct a mini-trial. The limited duty of the Court is to see whether there are sufficient grounds to proceed against the accused. If the material available raises a strong suspicion about the involvement of the accused, that is enough to frame charges and call upon the accused to face trial.

28. The Supreme Court in *State of Bihar v. Ramesh Singh* (1977) 4 SCC 39 has clearly held that if the evidence on record shows a strong suspicion of the accused's involvement, the Court should frame the charge, without considering whether the evidence will ultimately lead to conviction. The same principle was reiterated in *Union of India v. Prafulla Kumar Samal* (1979) 3 SCC 4, where it was explained that the Court has only to see whether a prima facie case is made out.

29. Applying these principles, the liability of the applicant under Section 27(1) of the SEBI Act arises from his position as Chief Executive Officer, who was in charge of and responsible for the conduct of the company's business at the relevant time. The complaint and supporting material, including inspection reports, forensic audit, and findings of the Adjudicating Officer, prima facie show that the applicant had a role in the affairs of the company

and failed to exercise due diligence.

30. Therefore, the plea that the applicant stands exonerated in adjudication cannot be accepted as a ground for discharge. The adjudication order does not absolve him. On the contrary, it contains observations which point towards his responsibility. In view of Section 27(1) of the SEBI Act and the law laid down in *Ramesh Singh* (supra), there exist sufficient grounds to proceed against him. Any discharge at this stage would amount to a premature assessment of evidence, which the law does not permit.

31. The complaint relies on cogent material such as the SEBI inspection report, reports of NSE, the forensic audit, and relevant bank and DP account statements. All these disclose sufficient grounds to proceed. At this stage, the Court cannot weigh the sufficiency of the evidence as if deciding a trial. Even a strong suspicion based on such material is enough to frame charges.

32. For these reasons, the order of the learned Special Judge rejecting the discharge application is perfectly legal. It does not suffer from any infirmity. On the contrary, it is in full conformity with the settled principles of law. No case is made out for interference in the exercise of revisional jurisdiction.

33. Accordingly, the Revision Application stands dismissed. The applicant shall face trial in accordance with law.

(AMIT BORKAR, J.)