

C.C. No.412/PW/2007

Exh.114

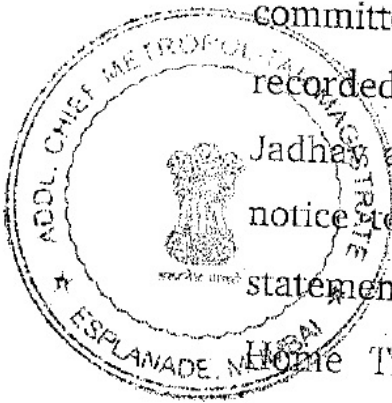
P.W. No. 9 on S.A. :

State V/s. Ketan Sheth and others.

Name : Prabahkar Babaji Loke.  
Age : 61 years.  
Occupation : Retired ACP  
Residing at : Mulund (East)

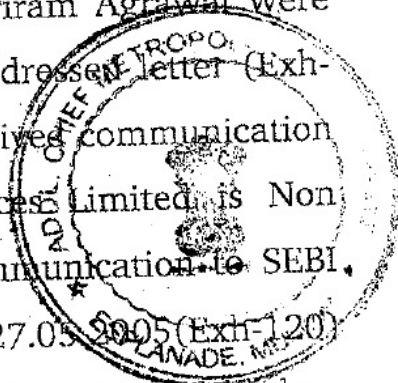
Examination-in-chief by Ld. A.P.P. Smt. P. S. Patil for the State :-

1. In the year 2005, I was attached to EOW, Mumbai as Police Inspector. Applications filed by informant were handed over to me for inquiry. During inquiry, it revealed to me that Mafatlal Group had purchased some securities worth Rs.35 Lakhs from Giltedge Management Services. But the complainant Mafatlal Group did not receive securities. Informant also did not get back his money also. As such, criminal breach of trust committed with informant. Accordingly as per procedure of EOW I drafter report and took the informant to police station Santacruz. Report (Exh-115) now shown to me, bears my signature and its contents are correct. It also bears signature of informant. During the course of investigation, it revealed that accused company had committed criminal breach of trust with some other persons also. I recorded statements of Kaushal Kailash, Prakash Sawant, Vilas Jadhey and recorded statements of other witnesses. I addressed notice to HDFC Bank, Fort Branch and made demand of bank statement of account of Giltedge India Pvt. Ltd and account of Home Trade Limited. I also made communication with J.P. Ravetkar, Branch Manager of Janata Sahakari Bank, Fort Branch



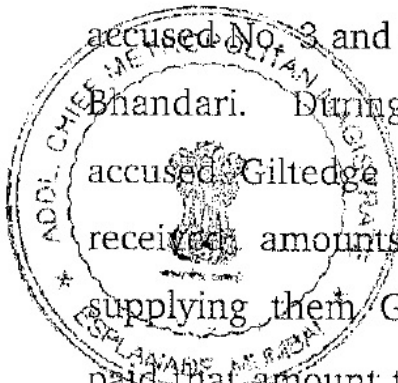
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and recorded his statement and also took account statement of bank accounts of Giltedge Management Services and Home Trade Limited. I recorded statement of Bina Navneetbhai Sanghavi. I seized all the receipts from informant related to crime. Informant submitted those receipts to me alongwith letter (Exh-116) dated 13.06.2006. Receipts (Exh-66 to 85) now shown to me are same. Then I made communication by letter (Exh-117) to Registrar of Companies. Accordingly ROC supplied form No. 32 and 36 (Exh-86 to 95). Letter (Exh-118) was addressed to me by Registrar of Companies. As per the information given by Registrar of Companies, accused Ketan Sheth, Sanjay Hariram Agrawal were directors of Home Trades Limited. I also addressed letter (Exh-119) to RBI. By letter dated 15.06.2005, I received communication from RBI that Giltedge Management Services Limited is Non Banking Financial company. I also made communication to SEBI, by letter and accordingly reply letter dated 27.05.2005 (Exh-120) and informed me that Home Trades Limited is registered broker. HDFC Bank vide letter (Exh-121) submitted bank statements of informant to me. I also seized original cheques. UCO Bank also submitted account statement of Mafatlal Services Limited vide letter (Exh-122). I also seized five cheques of Bank of Baroda vide letter (Exh-122A). Vide letter (Exh-123) HDFC Bank submitted account statement of Stillage India Employees Provident Fund. I also seized one cheque of Stillage India Limited from HDFC Bank vide letter (Exh-124) dated 11.12.2006. State Bank of Hyderabad



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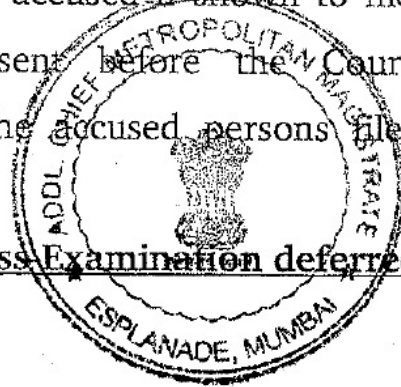
submitted account statement of Ureka Forbes Limited vide letter (Exh-125) dated 10.06.2006. I seized cheque from State Bank of Hyderabad vide letter (Exh-125A) dated 30.11.2006. Janata Sahkari Bank Pune submitted bank statement of Giltedge Management Services Limited vide letter (Exh-126) dated 19.07.2006. UTI Bank Limited Calcutta two bank statements of Home Trade Limited by letter (Exh-127) dated 05.10.2005. UTI Bank Limited Calcutta also submitted account opening form of Giltedge Management Services Limited vide letter (Exh-128) dated 24.08.2004. Janata Sahakari Bank Limited Pune submitted account opening form and account statement of KJMS Software Services Limited vide letter (Exh-129) dated 04.01.2007. HDFC Bank, Fort Branch submitted photo copies of six cheques vide letter (Exh-53). Janata Sahakari Bank Limited Pune submitted account statement of GMSL vide letter (Exh-130) dated 01.08.2006. Vide letter (Exh-131) dated 26.03.2007 I got verified government securities from RBI. By order of Court I took custody of accused No.1 and 2 from Surat Court. I effected arrest of accused No. 3 and 4 namely Nandkishor Trivedi and Subodhchand Bhandari. During the course of investigation, it revealed that accused Giltedge Management company and its directors have received amounts from informant and other witnesses for supplying them Government Securities. Giltedge Management paid that amount to Home Trades Limited. Lastly GSML and HTL have not handed over Government Securities to informant and



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other witnesses. It also revealed during investigation that accused received amount and issued receipts even though they were not having Government securities with them as such they cheated informant and witnesses. I can identify accused if shown to me. Today none of the accused is present before the Court. (Identification is not disputed as all the accused persons filed exemption application)

(In view of application (Exh-132), Cross Examination deferred till next date)



R. O. & A. C.

*S.P. Shinde*

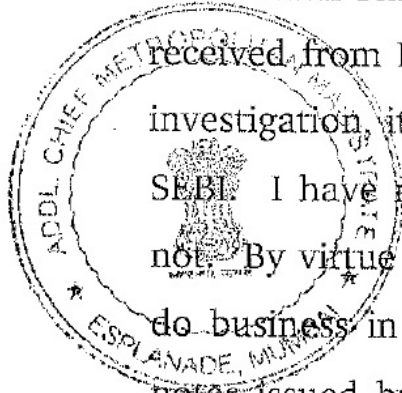
(S.P. Shinde)

Addl. C. M. M., 47<sup>th</sup> Court,  
Esplanade, Mumbai.

Date :21.02.2024

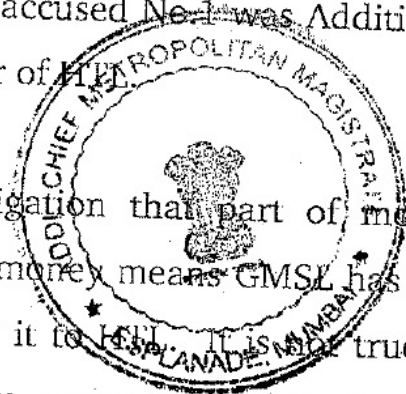
Cross-examination on oath by Advocate Poonam Ankeshwari  
for accused No. 1

2. FIR in the case was first registered with Santacruz Police Station on 17.02.2005. On the same day, said crime came to be transferred to EOW. Initially Sudesh Shah came to EOW and filed application. On the basis of application, preliminary inquiry was done. After inquiry, cognizable offence was discovered. So his statement was recorded and he was taken to Santacruz Police Station. Application filed by Sudesh Shah for inquiry is not attached with Court file. I cannot tell exact date when Sudesh Shah had filed application. I cannot tell exact date when it was submitted by Sudesh Shah prior to registration of crime. After registration of crime, I was appointed as Investigating officer on same day. I am not aware whether Sudhir Shah and R.R. Likhite had filed similar complaint with Santacruz Police station in December-2002. I am not aware that said complaint was closed as it was civil complaint. Statement of informant was recorded at EOW. I do not remember name of officers who were present in EOW when statement of informant was recorded. As per report received from RBI, GMSL is registered as NBFC with RBI. During investigation, it came to light that HTL was registered broker with SEBI. I have not verified from SEBI whether GSML is broker or not. By virtue of registration given by RBI, GSML was entitled to do business in Government Securities. I have seen the contract notes issued by GSML. There is no column of brokerage in bill (Exh-66). No brokerage was charged on bills (Exh-67 to 73). I cannot make any comment that GSML was working as broker. I



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did not investigate to find out whether GSML was broker or not. It is not true to say that accused No.1 was not director of Home Trades Limited when questioned transaction took place. Transactions took place from November-2001 to 03.04.2002. Accused No.1 Ketan Sheth was appointed as director on 15.05.2001. I have gone Form No.32 (Exh-134) to verify when Ketan Shah was appointed as director of HTL. Form 32 is pertaining to appointment as well as resignation. From Form 32 (Exh-134) I say that Ketan Sheth resigned company in May-2001. Form 29 (Exh-135) is shown to have been registered on 19.01.2000. I did not verify whether accused No.1 was Additional or Full Time or Non-Executive director of HTL.



3. It revealed during investigation that part of money were given by GSML to HTL. Part of money means GSML has not transferred entire amount received by it to HTL. It is not true to say that GSML has transferred more amount to HTL than it received from its customers. I seized contract note (Exh-75) during investigation. Contract note (Exh-75) is issued by Home Trade Limited to GSML. That contract note is relating to principal to principal transaction. I do not know that principal to principal means no broker is involved. I had no occasion to see the award passed by sole arbitrator of Pune Stock Exchange. I am not aware that GSML had filed application before Civil Court for execution of award.

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(Further cross-examination deferred due to recess).

R. O. & A. C.

*Shinde*  
28.2.24

(S.P. Shinde)

Addl. C. M. M., 47<sup>th</sup> Court,  
Esplanade, Mumbai.

Date :28.02.2024

C.C. No.412/PW/2007

Exh.114

Further cross-examination resumed on oath by Advocate

Poonam Ankeshwari for accused No. 1

4. I was not having idea whether GMSL was not working as broker. As per form 29 of ROC (Exh-135) accused Ketan Sheth was appointed as director of Home Trade Limited on 19.01.2000. As per Form 32 (Exh-134) accused Ketan Sheth was resigned from Home Trade Limited on 15.05.2001. I have not personally verified from any authority whether GMSL was working as broker. I did not come across any document or I did not call any document from SEBI to verify whether GMSL was working as broker. I did not seize any brokerage receipt from accused No.1. In Deal Confirmation Letter (Exh-66) no third party is involved.



5. Letter dated 24.02.2005 (Exh-140) now shown to me received by me alongwith eight documents mentioned therein. Alongwith said letter, accused No.1 had submitted with award of

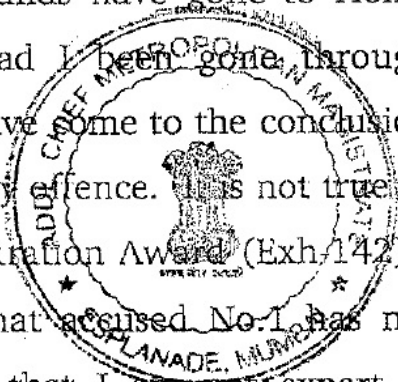
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6.3.24

Pune Stock Exchange.

Question: Is it correct to say that you have wrongly stated before Court that you had no occasion to see award of Pune Stock Exchange?

Answer: I had no occasion to see original or certified copy of award of Pune Stock Exchange. I had seen only photo copy of that award.

I did not try to obtain certified copy of award of Pune Stock Exchange because it was not part of my investigation. I have investigated as to the fund flow and funds have gone to Home Trade. It is not true to say that had I been gone through Arbitration Award (Exh-142) I would have come to the conclusion that accused No.1 has not committed any offence. It is not true to say that had I been gone through Arbitration Award (Exh-142) I would have come to the conclusion that accused No.1 has not gained wrongfully. I voluntarily state that I am not expert in Arbitration and Civil Proceeding. If other matters are related to the matter under investigation, then I would have tried to gather information about those matters. I did not find any unaccounted amount in the house of accused No.1.

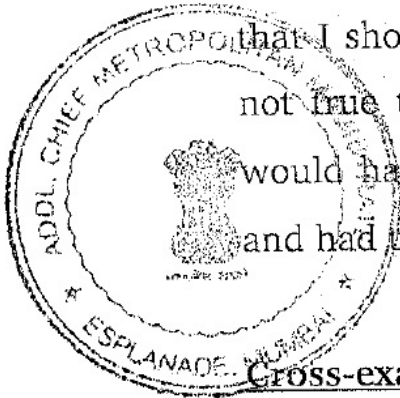


6. I simply prepared noting of the inquiry conducted in respect of conducting inquiry. That noting is not part of chargesheet. It is submitted to senior for permission to register case as cognizable offence is disclosed. I had not carried out any investigation in respect of transaction taken place between GMSL

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and its customers before November-2001. I am not aware that arbitrator directed HTL either to submit securities or make payment to GMSL on or before 30.01.2003. I am not aware that said award was presented to Civil Court for execution. It is not true to say that all transactions between GSML on one hand and all customers on other hand were civil transactions. It is not true to say that all the documents submitted by accused No.1 alongwith letter (Exh-140) show that transactions were of civil nature and accused has not committed any offence. I am not aware that HDFC bank has disbursed loan of Rs. 20 Crores to GMSL for purpose of Government Securities. HTL and GMSL were carrying out their business independently. Accused No.1 was doing his business under the licence issued by RBI. It is not true to say that there is no material in chargesheet against accused for the offences punishable under Section 409 and 420 of IPC. It is not true to say that I should have filed 'C' summary against accused No.1. It is not true to say that if I had properly carried out investigation I would have come to know that accused No.1 himself is a victim and had to recover Rs.17 Crores from HTL.



Cross-examination by Adv. Vaishali Malekar holding for advocate Deepak Mane for accused No.2

7. Adopted cross-examination conducted for other witnesses.

*Vaishali*  
CBM

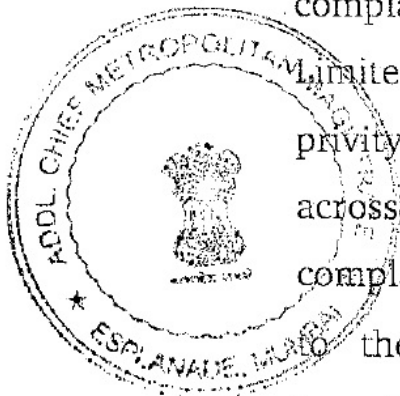
Cross-Examination by accused No.3 in person.

8. I have completed my post graduation from Master of Science from Mumbai University. I worked with Police Department for 33 years. I worked with EOW for four years. I had not investigated any matter relating to Government Securities prior to investigation in present matter. I have no banking and accounting background. I had brief knowledge of Wholesale Debt Market and Securities. I have not taken assistance of any person having expertise in Wholesale Debt Market to understand nittygritty of government securities buying and selling transactions prior to file chargesheet in the present matter. I have not studied regulations of RBI pertaining to operation of Wholesale Debt Market prior to investigate the present matter. I did not meet any officer of RBI Public Debt Department to understand actual working of Wholesale Debt Market. I had sent letter to SEBI to verify whether Home Trade Limited registered as broker or not. I am only aware that Home Trade Limited was member of Bombay Stock Exchange and Pune Stock Exchange. Home Trade Limited has issued contract notes (Exh-74, 75, 76, 77, 78, 79, 80, 81, 82 and 83) were issued by Home Trade Limited in capacity as member of Pune Stock Exchange. I have not studied rules, regulations and by-laws of Pune Stock Exchange applicable to their members for their dealing in Government Securities. I have not met any of the officer of Pune Stock Exchange to understand rights of Home Trade Limited as a member of Pune Stock Exchange for its dealing in Government Securities. I have not verified that HTL was

*Answered*  
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registered with RBI. I am not aware about letter (Article A). I obtained Form No. 29 and Form 32 to verify number of directors. At that time total seven directors were there in the HTL.

9. There is no mention of name of accused Nandkishor Trivedi in report. There is no mention of name of accused Nandkishor Trivedi and HTL in FIR and statement of witnesses. Cheque was not issued in the name of accused Nandkishor Trivedi. Cheques were not issued by informant to HTL also. Accused Nandkishor was not authorized signatory in Giltedge Management Service limited. I have collected bank statement of GMSL from all the banks where GMSL were having accounts. From bank statement it revealed to me that no money was transferred to account of accused Nandkishor. Nandkishor was not issued signatory to the bills issued to informant. In bills issued by GMSL to its customer complainant nowhere it is mentioned that GMSL will buy these securities from Home Trade Limited and delivery to complainant would be subject to counter delivery by Home Trade Limited. During investigation it revealed to me that there was privity of contract between GMSL and informant. I have not come across correspondence whereby GMSL while issuing bills to the complainant had informed to them that delivery of GOI will given to them subject to receipt of delivery from HTL. During investigation it revealed to me that contract note issued by HTL were subject to Arbitration Clause. Contract notes executed



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6.3.23

between GMSL and HTL were collected by me from Amit Sheth of GMSL

(Cross-Examination deferred due to recess)

R. O. & A. C.

*Shinde* 6-3-24

(S.P. Shinde)

Addl. C. M. M., 47<sup>th</sup> Court,  
Esplanade, Mumbai.

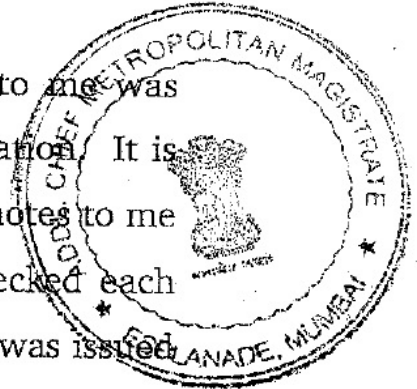
Date :06.03.2024

Further cross-Examination resumed on oath by accused No.3 in person.

10. The person who submitted contract notes to me was officer of the company but I do not recollect his designation. It is not true to say that the person who submitted contract notes to me was not officer of the company. I have personally checked each contract note and bill which has come to me and which was issued by HTL to GMSL. The question of verifying legal enforceability and validity of the documents does not arise as originals were submitted with me and those documents were signed and sealed.

**Question:** Did you personally tally securities purchased by complainant/informant were exactly of the same description and amount as mentioned in the contract notes of HTL?

**Answer:** Question is not relevant because Securities were purchased by informant from GMSL so I cannot tally them with the Securities purchased from Home Trade.



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6-3-24

None of the bills and contract notes issued by HTL were signed by accused Nandkishor. Bills for contract notes were issued by HTL in Form No. B. I did not inquire with Stock Exchange when bills were issued in Form No. B. Bills were issued in Form No. B where transaction is principal to principal. I have not seen any letter showing that GMSL has sought for Securities from HTL. During investigation, I did not come across any documents showing that money which were received by HTL from GMSL were transferred the account of accused Nandkishor. Cheques issued by HTL were not signed by accused Nandkishor. As far as UTI Bank letter dated 19.04.2005 is concerned, none of the cheque is signed by accused Nandkishor. Name of the informant is not mentioned any of the contract notes (Exh-75,77,79,81 and 83) and those contract notes do not bear signature of accused Nandkishor. In the contract note issued by Home Trade to GMSL name of the person to whom it is to be delivered is not mentioned. All transactions between HTL and GMSL are principal to principal and no brokerage was charged to GMSL. Privity of contract was between HTL and GMSL only. I have not inquired with GMSL whether it has filed any application for arbitration before Pune Stock Exchange. All the contract notes and bills issued by HTL as member of Pune Stock Exchange were legally valid and enforceable. Time period for supply of Securities by HTL to GMSL is not mentioned in contract notes. In corporate world responsibilities always assigned to the officials. I have not come across any resolution of Board of Directors having discussion pertaining to transaction with GMSL by HTL. I have not come

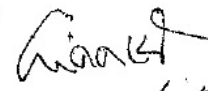


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across any minutes of meeting of HTL showing that accused Nandkishor was present in any of the meeting regarding discussion of GSML Transaction.

(Cross-Examination deferred till next date )

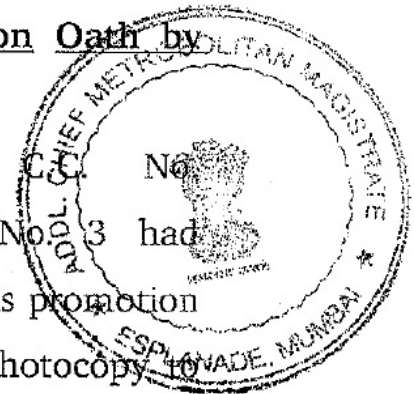
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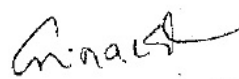
  
(S.P. Shinde) 13.3.24  
Addl. C. M. M., 47<sup>th</sup> Court,  
Esplanade, Mumbai.

Date :06.03.2024

Further cross-examination Examination Resume on Oath by accused No. 3 in person :-

11. I was parallely investigating C.C. No. 412/PW/2007 and 200/PW/2005. Accused No. 3 had submitted copy of his appointment, copy of of his promotion and copy of his resignation along-with there photocopy to me at the time of his arrest. From those I come to know that accused No. 3 was salarised employee and performing his duty as company secretary. I have collected only form 29 and 30 to related to appointment of resignation of directors during the case of investigation. It is not true to say that as per memorandum of association of company, the company secretary had no role to play in commercial transactions of the company. It is not true to say that as per promotion letter only designation and salary of accused No. 3 was



  
13.3.24

changed but his role was not changed. Bank account is open in the name of the persons of firm mentioned in the application. For private and public limited company for opening of bank account resolution of board of director and in that resolution specify in what name bank account in which bank will be open. I don't know that the title of the bank account is exactly printed on cheque. All the cheques placed on record are from HTL Bank account not from BSI Clearing Account. During investigation I come to know GMSL and HTL were legal entities. All the transactions between Home Trade and GSML were taken place for and behalf of HTL. I have not verified the persons who received bill (Exh -73) on behalf of HTL. I have not collected ledger of GMSL from HTL to tally it with ledger mentioned by GMSL. I verified amount of transactions in the bank account of GMSL and HTL and arrived at conclusion that transactions done with HTL were counter part of transactions done by GMSL with informant. Bill (Exh 74) and contract note (Exh 75) are not signed by any one on behalf of HTL. There is no contract note in chargesheet for securities of denomination of Rs. 11.50% GOI 2011. Bill No. 04/2002/437 dated 03 April 2002 for securities description 14.15% MSRDC-B-2009 Service-2 is not part of chargesheet. Bill No. 1/11/1074 dated 6/11/2001 for securities description 9.85% GOI 2015 is not part of chargesheet and there is no contract note in respect of the same. There is no contract note issued by HTL.



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corresponding to 15% IDBI 2002 for the alleged transaction of FOSMA. There is no contract note issued by HTL corresponding to 14% HDL 2005. It is not true to say that there is no whisper in charegesheet regarding accused No. 3, but I falsely implicated him. It is not true to say that accused No. 3 was never involved in commercial activities of the company. It is not true to say that accused No. 3 is not concerned with informant or GMSL in respect of any of the transactions. It is not true to say that HTL is not liable to pay any amount to GMSL. I have collected two letters dated 21 May 2002 issued by GMSL to informant, but I am not aware about there contend. It is not true to say that I deposing false that I was not knowing whether accounts of GMSL where freezed.



(Cross-Examination for accused No. 4 deferred till next date )

R. O. & A. C.

*Shinde*  
13/3/24

(S.P. Shinde)

Addl. C. M. M., 47<sup>th</sup> Court,  
Esplanade, Mumbai.

Date :13.03.2024



Cross-examination resumed on oath by accused No. 4 by Adv.

Mr. B.B. Tiwari:-

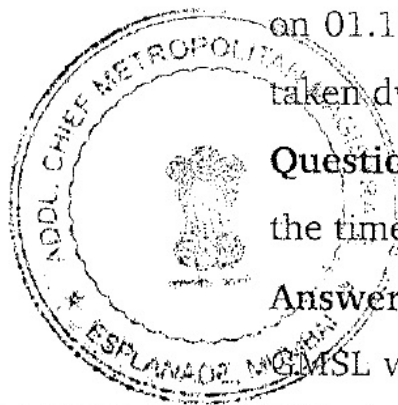
12. I joined police department in the year 1987 as PSI. I retired from Police Department in the month of May-2020 as an ACP. I investigated in number of matters. But I do not recollect exact number of cases investigated by me. I had effected arrest of accused also in number of cases.

13. I investigated the matter. I effected arrest of accused and submitted chargesheet in the present matter. My endorsement is not there on FIR(Exh-115). Contents of FIR/Report were stated by informant. Contents are correct means contents are taken as per say of informant. There are four informants in one report. I recorded statement of Kaushal Kailash, Vilas Jadhav and Prakash Sawant. FIR is recorded as per statement of Sudhir Shah. Bills (Exh-66 to 68) were given by GMSL to Mafatlal i.e. the first informant. Bills (Exh-69 to 72) were given by GMSL to Fosma Maritime Institute.

14. Letter (Exh-149) was submitted to me by Amit K. Sheth on 01.12.2005. Amit Sheth is from GMSL. Letter (Exh-149) was taken during the course of preliminary inquiry.

**Question:** Whether Amit Sheth was in employment with GMSL at the time when he submitted letter (Exh-149) to me?

**Answer:** At the time of submission of letter (Exh-149) operation of GMSL were stopped but Amit Sheth was director of said company at the time of transaction.



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15.3.24

15. Transactions took place from November-2001 to 03.04.2002. In 2005, Amit Sheth was not shown as director of GMSL. Being Ex-director of company Amit Sheth submitted documents to me alongwith letter (Exh-149).

16. Bills (Exh-74 and 75) are unsigned and Bills (Exh-76 to 83) are signed by accused No.4 Subodh Bhandari. I have seen signature of accused No.4 Subodh on other account opening form and on that basis I came to conclusion that bills (Exh-76 to 83 ) are signed by him. I have not taken opinion of handwriting expert to verify that bills (Exh-76 to 83) were signed by accused No.4 Subodh. I have not taken specimen signatures of accused No.4 Subodh.

(Cross-examination deferred till next date as witness sought time.)

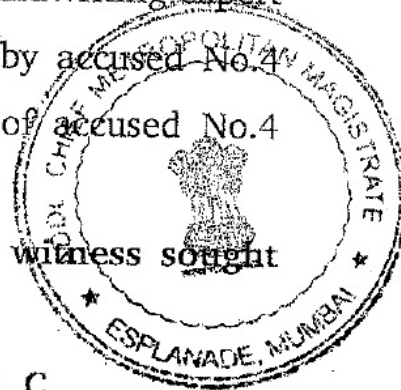
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*S.P. Shinde*  
15.3.24

(S.P. Shinde)

Addl. C. M. M., 47<sup>th</sup> Court,  
Esplanade, Mumbai.

Date :15.03.2024



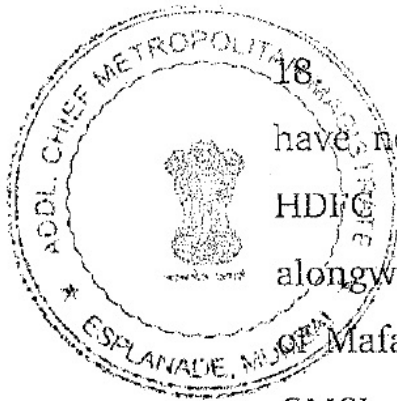
Further cross-examination resumed on oath for accused No. 4 by Adv. Mr. B.B. Tiwari:-

17. Amit Sheth has not directed letter (Exh-149) as Ex-director of GMSL. Office of GMSL was not operational, hence in order to verify authenticity of bills submitted alongwith letter (Exh-149) I relied on the informant and other victims. Amit Sheth is not informant. I had no independent source of information to verify the bills submitted by Amit Sheth.

Question: Did you verify how could Amit Sheth produce those documents before you?

Answer: Amit Sheth is brother of accused No.1 and when accused No.1 was in custody and office was closed he (Amit )was having keys and was in custody of office of GMSL.

Amit told me that keys of office of GMSL were with him. So he came to me. I went to office of GMSL with Amit Sheth. I seized some ledgers of informant and witnesses and prepared panchanama. That panchanama is attached with C.C. No. 200/PW/2005. Bills were already produced before me by Amit alongwith his letter (Exh-149).



18. I recorded statement of Heenaben Dave (P.W.7). I have not annexed letter dated 22.06.2006 addressed by me to HDFC Bank vide outward No.6379/EOW/Unit-1/PBL/2005 alongwith chargesheet. As per bank account statement (Exh-152) Mafatlal of HDFC Bank, Mafatlal has paid that amount to the GMSL. I have not attached letter dated 21.06.2006 bearing outward No. 6576/EOW/Unit-1/PBL/2005 addressed by me to UCO Bank with chargesheet. I have received bank statement (Exh-

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16-3-24

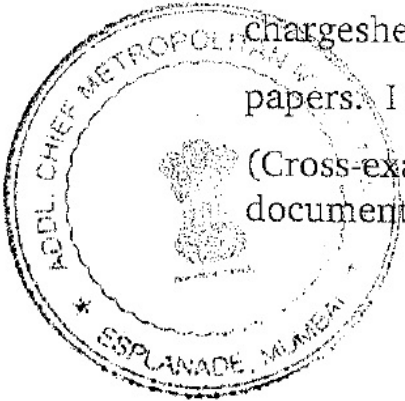
153) from UCO Bank. As per said bank statement amount of Rs.5,23,146.53/- was paid by Mafatlal to GMSL. Cheques (Exh-154 to 158) were submitted to me by Manager of Bank of Baroda. Those cheques were issued by Mafatlal to GMSL. I have not attached letter dated 22.06.2006 bearing outward No. 6380/EOW/Unit-1/PBL/2005 addressed by me to HDFC Bank with chargesheet. I have received bank statement (Exh-159) from HDFC Bank. As per said bank statement high lighted entry of amount of Rs.24,22,419/- was paid by Stiledge Industries to GMSL. I verified said entry with entry in the bank account of GMSL. Cheque (Exh-160) now shown to me was issued by Stiledge to GMSL. I have not attached letter dated 22.06.2006 bearing outward No. 6378/EOW/Unit-1/PBL/2005 addressed by me to State Bank of Hyderabad Bank with chargesheet. I have received bank statement (Exh-161) now shown to me from State Bank of Hyderabad. As per said bank statement high lighted entry amount of Rs.11,75,361/- was paid by Eureka Forbes to GMSL. Said amount was paid by Eureka Forbes to GMSL through cheque (Exh-162) now shown to me. I have not attached letter dated 18.07.2005 bearing outward No.7229/EOW/Unit-1/PBL/2005 addressed by me to Janata Sahakari Bank, Pune with chargesheet. I have received bank statement (Exh-163) now shown to me from Janata Sahakari Bank, Pune. As per said bank statement through high lighted entries amount of Rs.11,75,361/- was paid by Eureka Forbes to GMSL. Another entries show that amount of Rs.10,75,866/-, Rs.672417/- and Rs.5,43,342/- were paid by



Mafatlal to GMSL. From account statement (Exh-163) issued by Janata Sahakari Bank, Pune it cannot be gathered that money received by GMSL were paid to HTL. I have not attached letter dated 24.09.2005 bearing outward No. 1409/EOW/Unit-1/PBL/2005 addressed by me to UTI Bank, Calcutta Branch with chargesheet. I have received certified copy of bank statement (Exh-164) now shown to me from UTI Bank, Calcutta Branch. I am not sure from which account money has come to the account of GMSL. Bank statement (Exh-164) from 04.04.2002 to 16.04.2002 does not show any entry showing transfer of money from account of GMSL to HTL. I have not attached letter dated 31.07.2006 bearing outward No. 7683/EOW/Unit-1/PBL/2005 addressed by me to Janata Sahakari Bank, Pune with chargesheet. I have received bank statement (Exh-165) of GMSL from Janata Sahakari Bank, Pune. There is no any entry in bank statement (Exh-165) showing that money was gone to HTL from GMSL. From the entries shown in all above bank statements, I am not able to show that money has gone from GMSL to HTL.

19. I have not attached arrest memo of accused No.4 with chargesheet. I have kept that arrest memo with miscellaneous papers. I can produce it on record on next date.

(Cross-examination deferred as witness sought time to produce documents.)



R. O. & A. C.

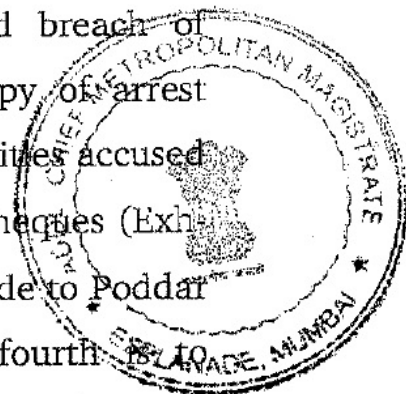
(S.P. Shinde)

16.3.24  
Addl. C. M. M., 47<sup>th</sup> Court,  
Esplanade, Mumbai.

Date :16.03.2024

Further cross-examination resumed on oath for accused No. 4  
by Adv. Mr. B.B. Tiwari:-

20. I have checked miscellaneous record in Malkhana. But I could not find arrest memo of accused No.4. Nothing was seized from the accused No.4 at the time of his arrest, so his arrest memo is not attached with chargesheet. I am not in contempt with judgment of Hon'ble Supreme Court in the case of D.K. Basu because I had prepared arrest panchanama. But it is misplaced because of mistake of office. It is not true to say that it is not mistake of office but it is my mistake. It is not true to say that I effected arrest of accused No.4 even though he was not involved in the crime. It is not true to say that I committed breach of fundamental right of accused by not furnishing copy of arrest memo to him. It is not true to say that this breach entitles accused to file case of compensation. All the photocopies of cheques (Exh-55 to 58) now shown to me were issued by Home Trade to Poddar Trading, Pacific Finance, Home Trade itself and fourth Radhakant Tripathi. Cheque (Exh-54) was issued by Valiant Capital to Home Trade. These cheques show divergence of funds by Home Trade to Poddar Trading company.



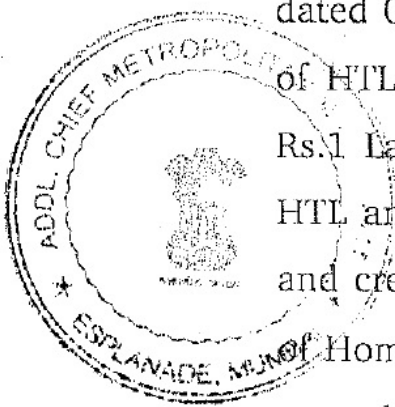
**Question:** What is relevancy of those five cheques with the present matter?

**Answer:** Rs.49,80,000/-, Rs. 50,00,000/- are debited from Home Trade Account No. 2364 on 10.09.2001 and the said amounts have been credited to the Pacific Trading account No. 2470. There is one entry to prove divergence of funds. Out of whatever entry I

*Cross*  
16.3.24

have shown I could check entry regarding cheque dated 28.03.2002 of Rs.10 Lakh only. During course of evidence I can't lay hands on all aspects of evidence and sometime partial evidence is collected. Cheque (Exh-56) issued to Pacific Finance dated 28.03.2002 was of Rs. 10 Lakhs. But there is no entry of cheque in the account statement.

21. I have not annexed letter dated 08.12.2006 bearing Outward No. 10718/EOW/Unit-1/PBL/2005 with chargesheet. Letter (Exh-166) now shown to me was issued to me by Manager Janata Sahakari Bank, Pune. As shown in statement (Exh-167) vide entry dated 01.09.2001 amount of Rs.25 Lakhs was deposited into account of Home Trade by Giltedge. As shown in statement (Exh-167) vide entry dated 03.09.2001 amount of Rs. 25 Lakhs was deposited by HTL in the account of GMSL. As shown in statement (Exh-167) vide entries dated 03.09.2001 total amount of Rs. 12 Lakhs is debited to the account of HTL and has gone to the account of GMSL. As shown in statement (Exh-167) vide entry dated 05.12.2001 amount of Rs.1 Lakh is credited to the account of HTL from the account of GMSL and on same day amount of Rs.1 Lakh credited to the account of Pacific from the account of HTL and again Rs. 1 Lakh was debited from the account of HTL and credited to the account of GMSL. Bank statement (Exh-168) of Home Trade Limited of the account maintained with UTI Bank now shown to me is the same. As shown in the said statement Rs.43,90,100/- were paid by HTL to GMSL. It is not true to say



*Annexed 16.3.24*

that I have wrongly arrested accused No.4 and wrongly prosecuted him. It is not true to say that accused No.4 has not committed any offence.

Re-Examination: Nil

Date :16.03.2024



True Copy  
*[Signature]*  
Judicial Clerk,  
Additional Chief Judicial Magistrate's,  
47<sup>th</sup> Court, Esplanade, Mumbai.