IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISIONAL JURISDICTION

APPELLATE SIDE

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

CRR 1594 of 2018
With
IA No. CRAN 1 of 2025
CRAN 4 of 2025

Ahilya Sharma & Ors.
Vs.
The State of West Bengal & Anr.

For the Petitioners	:	Mr. Pawan Kumar Gupta Mr. Sreyash Kumar Singh
For the State	:	Mr. Ranabir Roy Chowdhury Mr. Siladitya Banerjee
For the SEBI	:	Mr. Sandipan Ganguly Mr. Sudip Kumar Dutta Mr. Karan Dhudhewala
Heard On	:	15.01.2026
Judgment on	:	27.03.2026

Dr. Ajoy Kumar Mukherjee, J.

1. Petitioners herein have prayed for quashing of the complaint case being C-671 of 2004 under section 24(1)/27 of the Security and Exchange Board of India Act, 1992 (in short, SEBI Act.), Presently pending before the court of learned Chief Judicial Magistrate, Alipore.

2. The instant complaint has been filed on behalf of the securities and exchange Board of India (in short SEBI) to prosecute the petitioners for their alleged deliberate violation of section 11B, 12(1B) of the SEBI Act, 1992 and Regulations 5 (1) Read with Regulations 68(1), 68(2), 73 and 74 of the Securities Board of India (collective investment scheme) Regulations 1999.

3. It is alleged in the complaint that company/accused no.1 was operating collective investments scheme (CIS) and had raised an aggregate amount of nearly Rs. 0.004 crores (Rs.40,000/-) from the general public and its failure to refund the said amount to those investors is violative of SEBI Act and Regulations which are punishable under section 24(1) of the SEBI Act, in as much as that inspite of repeated directions, issued to them to furnish certain documents disclosing status of the company, to formulate schemes for refund of the said amount to the investors and to submit application before the SEBI for the provisional registration with it or to take steps for winding up of the schemes and repayment to the investors as provided under the Regulations, 1999, those directions were allegedly not complied by the petitiners.

4. Being aggrieved by the aforesaid complaint case, petitioners counsel submits that the entire amount involved in this case is only Rs.40,000/- and the accused company was a Limited Company incorporated under the provisions of the Companies Act, 1956 and to that extent certificate of incorporation was also issued by the competent authority. Presently the said company has been dissolved by virtue of a notification dated 15th March, 2008 issued by Registrar of Companies.

5. Mr. Gupta Learned Counsel appearing on behalf of the petitioners further submits that the company as well as other similarly situated companies which issued instruments like Agrobond plantation bond etc. were brought under the purview of 'collective investment scheme' under SEBI Act and a press release was made by SEBI, on 18.12.1997 that all existing collective investment schemes which are desirous of taking benefit of section 12(1)(B) and continue their operation shall send to SEBI by 15.01.1998 necessary information with regard to the scheme. The petitioner no.1 filed information details with the SEBI as has been admitted in the complaint. Even though the company filed information before the SEBI but it issued a show cause notice dated 31.03.1998 to the company as to why action should not be initiated against the company and also advised to forward certain information mentioned therein by 30th April, 1998. The petitioner no.1 filed reply along with the details through registered letter dated 01.04.1998, where company has stated that further mobilization of fund has already been suspended and a sum of Rs.35,000/- mobilised earlier has also been refunded and as such question of deployment of funds does not arise.

6. However, inspite of compliance of all the directions issued by the SEBI, they again issued a letter to the company on 24.08.1998 stating therein that the records shows that no information has been filed by the company in compliance to its public notice dated 18.12.1997 and accordingly directed to file reply by 15.12.1998. Learned counsel for the petitioners submits that the aforesaid series of letters issued by SEBI clearly suggest that records of the SEBI itself is not in order and thereby they are

causing undue harassment to the petitioners. The petitioners herein in their reply have categorically submitted that it has already withdrawn the scheme and the amount has already been refunded to the investors and has no assets and liabilities. However, SEBI once again issued similar direction to the company on 25.11.1998 which were already replied. However the petitioners by a letter under certificate of posting reiterated that the scheme floated by the company has already been withdrawn and no new scheme is being floated nor they intend to float any new scheme and the small amount realized under the scheme has already been refunded. Thereafter on 30.03.2000 the company submitted the application in accordance with law before Registrar of Companies, for winding up the company with a request to strike out the name of the company from its register. On the basis of such application the Registrar of Companies, Bihar and Jharkhand Struck off the name of the company/petitioner no.1 from its register and dissolved the company vide notification no.43 dated 15.05.2008.

7. Mr. Gupta Strenuously argued that from the facts and circumstances of the case it is clear, whatever directions had been issued by the SEBI and received by the company, it has complied the same and therefore SEBI has no cause of action to initiate the instant proceeding. Moreover, the amount of Rs. 40,000/- which is alleged to have been raised from investors is infact the share money subscribed by the petitioner no. 1 to 4 themselves and therefore, the allegation of non-refund of hard earned money to the investors is absurd and mis conceived allegation, which do not attract violation of provisions of the SEBI Act or its rules.

8. However, SEBI by its letter dated 18.12.2000 again directed to refund the money in default to initiate proceeding under section 24 of the SEBI Act and thereafter by an order dated 02.07.2001 SEBI debarred the petitioners and the company from accessing the capital market for a period of 5 years, invoking their power under section 11B of the SEBI Act,

9. He further submits that one of the accused namely petitioner no.3 has already expired and the petitioner no. 1 and 2 are senior citizens and are suffering from various health disorder. He further submits that continuation of the present prosecution would be clear abuse of process of law as it would serve no statutory or public purpose. It does not involve any allegation of any claim of any investor and the petitioners have fully disclosed and winding up the internal scheme decades ago. Therefore, pursuing the instant matter will achieve nothing substantially and only create undue burden on the criminal justice system, and therefore the proceeding is liable to be quashed.

10. Mr. Sandipan Ganguly learned Counsel appearing on behalf of the SEBI argued that the petitioners had illegally mobilized funds from the public in contravention of the laws of the lands. The petitioners did not apply for registration under the SEBI Regulations nor took any steps for winding up of the scheme and repayment to the investors as provided under the said Regulation inspite of order passed by SEBI on 10th July, 2001. Accused company admittedly raised an amount of Rs. 40,000/- and its failure to refund thereof has caused huge damage to the investors. Accused no. 2 to 5 are the persons who are in charge of and responsible for the day to day management of the accused company at the relevant point of time.

The accused persons have clearly contravened the SEBI directions. A bare perusal of the petition of complaint makes it clear that all charges have been prima facie made out against the petitioners who had collected money from public and were operating a collective investment scheme in contravention of SEBI Act and Rules and Regulations. In fact after enactment of SEBI regulations 1999 it was mandatory in terms of regulation 73(1) that existing collective investment schemes, which failed to make an application for registration with SEBI shall wind up the existing collective investment schemes and repay the amounts collected from the investors. He further submits that from the representation dated 12.01.1998 made by the accused company it has admitted that the accused company had collected Rs. 35,000/- from the public and petitioners also admitted that they were in charge of and responsible for the affairs of the company.

11. Mr. Ganguly further argued that no documentary proof or otherwise has been shown by the petitioner to substantiate their claim that they have repaid any sum of money to the investors from whom they had collected the money. As such mere verbal assertion made in the application cannot form the basis of quashing the entire proceeding.

12. Mr. Ganguly further argued that the contention of the petitioners that the instant proceeding involved a paltry amount of Rs. 40,000/- is fallacious as the petitioner herein by making such submissions is seeking that the court should turn a blind eye to the offence committed by the petitioner merely because the amount of money raised and failure to repay the same is small amount. It is trite law that any offence under the criminal law does not distinguish between the amount which an accused has misappropriated

as the punishment for failure to repay any amount is the same. He further submits that *in* ***SEBI VS. Ajay Agarwal*** reported in **(2010) 3 SCC 765** the Supreme Court held that SEBI Act is Social Welfare legislation seeking to protect the interest of common men who are small investors and as such it is the duty of the courts to adopt such an interpretation which furthers the purpose of law and not one which frustrate it. Therefore he prayed for dismissal of the instant application.

13. I have considered submissions made on behalf of both the parties.

14. Before going to further details let me reproduce section 24(1), Section 27 of SEBI Act and Regulation 5 , 68, 73, 74 of the SEBI Regulation 1999

> *24. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.*
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> ***Section 27 Offences by companies****. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.*
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> *(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.*
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> *Explanation : For the purposes of this section,—*
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> *(a) ―company‖ means anybody corporate and includes a firm or other association of individuals; and (b) ―director‖, in relation to a firm, means a partner in the firm.*
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> ***Securities and Exchange Board of India (collective Investment Schemes) Regulation, 1999 Application by existing Collective Investment Schemes. Regulation 5****. (1) Any person who immediately prior to the commencement of these regulations was operating a 15[collective investment scheme], shall subject to the provisions of Chapter IX of these regulations make an application to the Board for the grant of a certificate within a period of two months from such date.*

(2) An application under sub-regulation (1) shall contain such particulars as are specified in Form A and shall be treated as an application made in pursuance of regulation 4 and dealt with accordingly.

Regulation 68 - Existing collective investment schemes to obtain provisional registration *(1) Any person who has been operating a collective investment scheme at the time of commencement of these regulations shall be deemed to be an existing collective investment scheme and shall also comply with the provisions of this Chapter. Explanation: The expression 'operating a collective investment scheme' shall include carrying out the obligations undertaken in the various documents entered into with the investors who have subscribed to the 187[collective investment scheme].*

(2) An existing collective investment scheme shall make an application to the Board in the manner specified in regulation 5.

(3) The application made under sub-regulation (2) shall be dealt with in any of the following manner:

(a) by grant of provisional registration by the Board under sub-regulation (1) of regulation 71;

(b) by grant of a certificate of registration by the Board under regulation 10;

(c) by rejection of the application for registration by the Board under regulation 12.

Manner of repayment and winding up Regulation - 73. *(1) An existing collective investment scheme which:*

(a) has failed to make an application for registration to the Board;

or (b) has not been granted provisional registration by the Board;

or (c) having obtained provisional registration fails to comply with the provisions of regulation 71; shall wind up the existing 209[collective investment scheme].

(2) The existing Collective Investment Scheme to be wound up under sub-regulation (1) shall send an information memorandum to the investors who have subscribed to the 210[collective investment scheme]s, within two months from the date of receipt of intimation from the Board, detailing the state of affairs of the collective investment scheme, the amount repayable to each investor and the manner in which such amount is determined.

(3) The information memorandum referred to in sub-regulation (2) shall be dated and signed by all the directors of the 212[collective investment scheme].

(4) The Board may specify such other disclosures to be made in the information memorandum, as it deems fit.

(5) The information memorandum shall be sent to the investors within one week from the date of the information memorandum. (6) The information memorandum shall explicitly state that investors desirous of continuing with the collective investment scheme shall have to give a positive consent within one month from the date of the information memorandum to continue with the collective investment scheme.

(7) The investors who give positive consent under sub-regulation (6), shall continue with the collective investment scheme at their risk and responsibility : Provided that if the positive consent to continue with the collective investment scheme, is received from only twenty-five per cent or less of the total number of existing investors, the collective investment scheme shall be wound up.

(8) The payment to the investors, shall be made within three months of the date of the information memorandum.

(9) On completion of the winding up, the existing collective investment scheme shall file with the Board such reports, as may be specified by the Board.

***Regulation 74**. An existing collective investment scheme which is not desirous of obtaining provisional registration from the Board shall formulate a scheme of repayment and make such repayment to the existing investors in the manner specified in regulation 73.*

15. In the instant case neither the company nor its directors applied for registration under the said regulation nor took any steps for winding up of the scheme or repayment to the investors as provided under the said regulation. The accused company has raised nearly an amount of Rs. 40,000/-(Rs. 0.004 crores). It is also not disputed that petitioner nos.2 to 4 were the persons in charge of and responsible for the day to day management of the accused company, at the relevant point of time which has been alleged in para 17 of the complaint. After enactment of the aforesaid Regulation of 1999, it was mandatory in terms of Regulations 73(1) that existing collective investment schemes, which failed to make an application for registration with SEBI shall wind up the existing collective investment schemes and repay the amounts collected from the investors. Further in terms of Regulation 74 an existing collective investment scheme which is not desirous of obtaining provisional registration from SEBI, shall formulate a scheme of repayment and will make repayment to the existing investors in the manner specified in Regulation 73. The specific allegation made in the complaint is that the petitioners neither applied for registration under the said regulation nor took any step for winding up of the schemes and repayment to the investors as provided under the Regulation, which amounts to violation of section 12(B) of SEBI Act 1992 and Regulation 5(1)

Read with Regulations 68(1), 68(2), 73 and 74 of the Regulations 1999. It is further alleged that upon alleged violation of the said provisions SEBI directed the accused company on December, 7 2000 to refund the money collected under the aforesaid collective investment scheme in the manner specified in Regulation 73 to the persons who invested therein, within a period of one month from the date of said directions. It is further alleged that the petitioners failed to comply the said direction inspite of proper service. Thereafter by another direction dated July, 2, 2001 the petitioners who are in charge of the business of the schemes were restrained from operating in the capital market for a period of 5 years from the date of the order. It is admitted position in this case that petitioners being in charge of and responsible for the affairs of the company had collected Rs. 35, 000/-. However, no documentary prove has ever been shown to this court till date by the petitioners that the said amount has been repaid to the investors.

16. Mr. Gupta learned counsel for the petitioners strenuously argued that prior to 2002, the offences under section 24 of the SEBI Act, were punishable for one year or with fine or with both. However, on and from 29.10.2002 by way of an amendment the said offence has been made punishable for ten years or with fine which may extend to Rs. 25 croes or with both. Therefore, since the alleged offence of noncompliance with the direction of SEBI was committed in the year 2001, the period of limitation as per section 468 of Cr.P.C. was one year from the date of completion of the offence. Now the instant case was filed in the year 2004, which is beyond the limitation period of one year and therefore the complaint is barred by

limitation and learned Magistrate ought not to have taken cognizance upon such offence.

17. Per contra Mr. Ganguly learned counsel appearing on behalf of the SEBI argued that offence committed by the petitioners is a continuing one as they have continued to hold on to the investment of the investors and failed to make any repayment to the said investors despite several directions passed by the SEBI. Therefore, it is each date thereafter that they have failed to comply with the direction of SEBI to repay the investors and thereby they have committed fresh offence on each date. He further argued that the concept of 'continuing offence' does not wipe the original guilt of the accused but keeps the contravention alive day by day. For such reason section 468 of the Cr.P.C. cannot have any application in the instant case and the offence which is alleged against the petitioner will be governed under section 472 of the Cr.P.C., according to which, a fresh period of limitation begins to run at every moment of the time during which the offence continues. He further pointed out that since such failure to wind up the schemes and refund the investors continued beyond the date of aforesaid amendment(which came into effect on 29.10.2022), the petitioners are guilty of committing offence punishable under the enhanced punishment provided under the amendment.

18. In this context Mr. Ganguly further argued that the provision of section 473 of the Code is an overriding provision according to which any court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied *interalia* that it is necessary to do so in the interest of justice. The instant case relates to defrauding of innocent

investors and as such in the interest of justice due weightage and consideration ought to be given to the provisions contained in section 473 of the Code, as opposed to the rule of limitation governing prosecutions. Therefore, the offence committed by the petitioners is a continuing one and when the instant case was filed in the year 2004 the provisions of section 24 of the SEBI Act had already been amended, thereby making the offence punishable with ten years or with fine or with both and as such the question of limitation does not arise. He further argued that prior to the initiation of the instant case accused company had made an application to ROC to wind up the company but initiation of the winding up process of the accused company on 30.03.2000 is of no consequence for adjudicating of the lis of the impugned proceedings, especially when the company was struck off on 15.03.2008 i.e. after the initiation of the instant case.

19. Therefore, the moot point to be adjudicated in the present case is whether the allegations levelled in the complaint is barred by law under section 468 of Cr.P.C. and therefore whether liable to be quashed applying the principle laid down in clause (6) of para 102 of the case of **State of Haryana and Ors. Vs. Bhajanlal and Ors.** reported in **1992 supp(1) SCC 335,** which states that a criminal proceeding is liable to be quashed, where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act.

20. It is beyond dispute that the SEBI Act, 1992 was framed mainly to protect the interest of the investors. The Apex Court while dealt with the legislative intent of the Act of 1992 held in SEBI Vs. Ajay Agarwal, (2010) 3 SCR 70

> ***39.*** *If we look at the legislative intent for enacting the said Act, it transpires that the same was enacted to achieve the twin purposes of promoting orderly and healthy growth of securities market and for protecting the interest of the investors. The requirement of such an enactment was felt in view of substantial growth in the capital market by increasing participation of the investors. In fact such enactment was necessary in order to ensure the confidence of the investors in the capital market by giving them some protection.*
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> *40. The said Act is pre-eminently a social welfare legislation seeking to protect the interests of common men who are small investors.*
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> *41. It is a well known canon of construction that when Court is called upon to interpret provisions of a social welfare legislation the paramount duty of the Court is to adopt such an interpretation as to further the purposes of law and if possible eschew the one which frustrates it.*

21. In Kunnam Kulam Papers Mills Ltd and Ors. Vs. SEBI (date 05.07.2022, Crl. A.No. 626 of 2019) the Madras High Court by a judgment dated 05.07.2022, while dealt with a similar issue considered a situation where direction was made by SEBI to refund the amount within a period of 30 days from the order and the same was not refunded and the direction was not complied. The court held that such noncompliance of direction amounts to an offence under section 24(1) of the SEBI Act.

22. Now as regards the question whether the offence, if any, committed under section 24 (1) of SEBI Act is a continuing offence or not I may profitably refer in this context a judgment of the Apex Court passed in **Bhagirath Kanoria and Ors. Vs. State of MP** reported in **1984 (4) SCC 222** where Apex Court has dealt with a similar type of issue as to whether non-payment of employees contribution to the Provident Fund within due date is a continuing offence. While considered the object and purpose of the provision, which is to ensure the welfare of workers in the said case, Court held that each day that they failed to comply with the obligation to pay their contribution to the Fund, they committed a fresh offence and such offences

must be regarded as continuing offences to which the law of limitation cannot apply. Para 21 and 22 of the judgment may be reproduced below:-

> ***21.*** *For these reasons, we are of the opinion that the offence of which the appellants are charged, namely, non-payment of the employer's contribution to the Provident Fund before the due date, is a continuing offence and, therefore, the period of limitation prescribed by Section 468 of the Code cannot have any application. The offence which is alleged against the appellants will be governed by Section 472 of the Code, according to which, a fresh period of limitation begins to run at every moment of the time during which the offence continues.*
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> ***22.*** *Before we close, we consider it necessary to draw attention to the provisions of Section 473 of the Code which we have extracted above. That section is in the nature of an overriding provision according to which, notwithstanding anything contained in the provisions of Chapter XXXVI of the Code, any court may take cognizance of an offence after the expiry of the period of limitation if, inter alia, it is satisfied that it is necessary to do so in the interest of justice. The hair-splitting argument as to whether the offence alleged against the appellants is of a continuing or non-continuing nature, could have been averted by holding that, considering the object and purpose of the Act, the learned Magistrate ought to take cognizance of the offence after the expiry of the period of limitation, if any such period is applicable, because the interest of justice so requires. We believe that in cases of this nature, courts which are confronted with provisions which lay down a rule of limitation governing prosecutions, will give due weight and consideration to the provisions contained in Section 473 of the Code.*

23. Same view has been reiterated in another judgment reported in **(1991) 2 SCC 141, Gogak Patel Volkat Limited Vs. Dandiyya Gurusidhayya Haiermath and Ors.** where in connection with the same issue Supreme Court rejected the contention of the High Court and held that where the allegation is non-payment of the employers contribution to the provident fund within the due date it is a continuing offence and therefore, section 468 of the Code does not have any application and it would be governed by section 472 of the Code according to which a fresh period of limitation started to run at every moment of the time during which the offence continued. The relevant paragraph may be reproduced below:-

> ***24.*** *The concept of continuing offence does not wipe out the original guilt, but it keeps the contravention alive day by day. It may also be observed that the courts when confronted with provisions which lay down a rule of limitation governing prosecutions, in cases of this nature, should give due weight and consideration to the provisions of Section 473 of the Code which is in the nature*

of an overriding provision and according to which, notwithstanding anything contained in the provisions of Chapter XXXVI of the Code of Criminal Procedure any court may take cognizance of an offence after the expiration of a period of limitation if, inter alia, it is satisfied that it is necessary to do so in the interest of justice.

25. *The expression 'continuing offence' has not been defined in the Code. The question whether a particular offence is a 'continuing offence' or not must, therefore, necessarily depend upon the language of the statute which creates that offence, the nature of the offence and the purpose intended to be achieved by constituting the particular act as an offence.*

26. *Applying the law enunciated above to the provisions of Section 630 of the Companies Act, we are of the view that the offence under this section is not such as can be said to have consummated once for all. Wrongful withholding, or wrongfully obtaining possession and wrongful application of the company's property, that is, for purposes other than those expressed or directed in the articles of the company and authorised by the Companies Act, cannot be said to be terminated by a single act or fact but would subsist for the period until the property in the offender's possession is delivered up or refunded. It is an offence committed over a span of time and the last act of the offence will control the commencement of the period of limitation and need be alleged. The offence consists of a course of conduct arising from a singleness of thought, purpose of refusal to deliver up or refund which may be deemed a single impulse. Considered from another angle, it consists of a continuous series of acts which endures after the period of consummation on refusal to deliver up or refund the property. It is not an instantaneous offence and limitation begins with the cessation of the criminal act, i.e. with the delivering up or refund of the propriety. It will be a recurring or continuing offence until the wrongful possession, wrongful withholding or wrongful application is vacated or put an end to. The offence continues until the property wrongfully obtained or wrongfully withheld or knowingly misapplied is delivered up or refunded to the company. For failure to do so sub-section (2) prescribes the punishment. This, in our view, is sufficient ground for holding that the offence under Section 630 of the Companies Act is not one time but a continuing offence and the period of limitation must be computed accordingly, and when so done, the instant complaints could not be said to have been barred by limitation. The submission that when the first respondent upon his retirement failed to vacate and deliver possession of the company's quarter to the company the offence must be taken to have been complete, has, therefore, to be rejected.*

24. What has been derived from settled position of law as quoted above is whether the particular offence is a continuing one shall necessarily depend on the language of the statute creating the offence, the nature of the offence and above all the purpose which is intended to be achieved by constituting a particular act is an offence. Viewing the issue from another angle, the offences which arises out of a failure to obey or comply with a rule or it's requirement and which involves a penalty, the liability for which continues until the rule or it's requirement is obeyed or complied with, on every

occasion that such disobedience or non-compliance occurs and reoccurs, there is the offence committed.

25. In the instant case the petitioners were unquestionably liable to refund the invested amount to the investors within the date specified by SEBI. Their subsequent prayer for winding up the company could not have absolved them of their original guilt but it would have snapped the recurrence and each day they failed to comply with the obligation to pay to refund, they have committed a fresh offence.

26. Therefore, here also the allegation of wrongful withholding the money, for whatever scanty amount, it may be, for the purpose other than the purpose as mentioned in the SEBI Act, is an offence which subsists for the period until the money in the offender's possession is refunded, and is a recurring/continuing offence and therefore complaint under section 24(1) of the SEBI Act for alleged non refund of money to the investors inspite of direction, cannot be said to be barred under section 468.

27. Mr. Gupta heavily relied upon the judgment of **SEBI Vs. Gourav Vershanny and Anr.** but said judgment is factually distinguishable from the present case. Para 100 of the said judgment states that since the appellant therein had resigned as a director of the accused company prior to the aforesaid amendment dated 29.10.2002, the period of limitation would be one year in terms of section 468. However, in the instant case none of the petitioners have ever resigned as directors prior to the initiation of the instant case and as such it cannot be said that the period of limitation would be one year in terms of section 468 of Cr.P.C. On the contrary, the allegation levelled in the petition is that they have continued to hold on to

the investment of the investors and failed to make any repayment to the said investors, despite several direction passed by the SEBI and therefore it is a continuing offence.

28. In view of above I do not find any substance in the petitioners application for quashment of the impugned proceeding.

29. CRR 1594 of 2018 thus stands dismissed. Connected Applications also thus stand disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, on priority basis on compliance of all usual formalities.

(DR. AJOY KUMAR MUKHERJEE, J.)