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MOHAMMAD SHAFAT KHAN AND ORS.

v.

THE NATIONAL CAPITAL TERRITORY OF DELHI AND ORS.

AUGUST 2, 2007

B

[DR. ARIJIT PASAYAT AND D.K. JAIN, JJ.]

C

*Contempt of Court—Application by creditors for appointment of receiver and for attachment of properties of Company—Order for attachment of properties by trial court—Violation of—During pendency of appeal before Supreme Court, debtors willing to dispose off the properties to meet the demand of creditors—Hence, the Court directed to work out the modalities to meet dues of creditors and discharge the liabilities without entering into the issue of commission of contempt.*

D

Many persons subscribed to the various fixed Deposits and saving schemes started by a company. On the date of maturity, the certificates issued were not honoured. Appellants-investors lodged FIR. They filed application for appointment of receiver and for attachment of the properties. Application was allowed. Magistrate issued public notice directing attachment of properties. However, orders for attachment were violated. Appellants filed

E

Revision Petition which was dismissed. Appellants then filed application. High Court dismissed the same. Hence the present appeal.

Disposing of the appeal, the Court

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**HELD:** It was submitted by the appellants that after having violated various orders passed, one of the non-official respondents has now come to dispose off the properties to meet the demands of creditors and to wipe out the liabilities. Ultimately, the people who are the creditors have to get back their money. Without entering into the matters relating to the commission of contempt, it would be appropriate for the concerned Court to work out the details and the modalities as to how the properties could be sold to get the highest price so that the dues of the creditors and the liabilities could be discharged. [Para 6] [778-A, B, C]

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CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1000 of

H

2007.

From the Judgment & Order 8.3.2004 of the High Court of Delhi at New Delhi in Criminal Misc. Case No. 99 of 2003

S.K.Bhattacharya for the Appellants

Vikas Sharma D.S.Mahara, Anil Katiyar, Sandhaya Goswami, Dr. Natis A. Siddiqui, Shiv Kumar Suri, Balraj Dewan for the respondents

The Judgment of the Court was delivered by

**DR. ARIJIT PASAYAT, J. 1.** Leave granted.

2. Challenge in this appeal is to the order passed by a learned Single Judge of the Delhi High Court dismissing the application filed by the appellants.

3. Challenge in the petition before the High Court was to the order passed by a learned Additional District and Sessions Judge, Tis Hazari Court, dismissing the Criminal Revision Petition filed by the appellants.

4. Grievances in short were that one M/s Habib Investments Ltd. incorporated under the Indian Companies Act, 1956 (in short the 'Act') advertised in various newspapers inviting the general public to subscribe in various Fixed Deposits and saving schemes. Since the schemes were very lucrative, many innocent persons subscribed to the schemes. Various persons were appointed as agents on commission basis to collect the money from subscribers. Many people who were to get money complained of cheating stating that on the date of maturity, the certificates issued were not honoured. First Information Report was lodged with the Police Station, Lahori Gate, Delhi. Initially, the application was filed for appointment of Receiver in respect of M/s Habib Group of Companies and to make an order to attach the properties. Five properties were attached. A public notice was issued by the learned Metropolitan Magistrate directing attachment of the properties. Grievance was made that notwithstanding the order of attachment the properties were either disposed of or dealt with in a manner contrary to the order of attachment.

5. The learned Additional District and Sessions Judge rejected the application filed by the appellants on the ground that they had no locus standi to file a revision petition. The High Court by a single line order

A dismissed the petition filed before it.

6. During the course of hearing of the appeal, it was submitted by the non official respondents that they are willing to dispose off the properties to meet the demands of the creditors. Learned counsel for the appellants submitted that after having violated various orders passed, one of the non-official respondents has now come to dispose off the properties to meet the demands of creditors and to wipe out the liabilities. Ultimately, the people who are the creditors have to get back their money. Without entering into the matters relating to the commission of contempt, it would be appropriate for the concerned Court to work out the modalities as to how the properties can be sold to get the highest price so that the dues of the creditors and the liabilities can be discharged.

7. Accordingly, we dispose of the appeal directing the concerned Court to work out the details and the modalities after hearing learned counsel for the parties so that the amounts due to various persons towards creditors and liabilities to be discharged, can be paid.

8. The appeal is accordingly disposed of.

N.J.

Appeal disposed of.