

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Date of Hearing : 29.11.2021**

**Date of Decision : 25.02.2022**

**Appeal No. 384 of 2020**

Mohit Karkera  
702-703, Tridev Tulip,  
BPS Cross Road No. 3,  
Behind Devidayal Garden,  
Mulund (W), Mumbai - 400 080.

..... Appellant

Versus

Securities and Exchange Board of India  
SEBI Bhavan, Plot No. C-4A, G Block,  
Bandra Kurla Complex, Bandra (East),  
Mumbai - 400 051.

... Respondent

Mr. Kunal Katariya, Advocate with Mr. Tomu Francis, Mr. Arka Saha, Ms. Zarnaab Aswad, Advocates i/b Khaitan & Co. for the Appellant.

Mr. Vishal Kanade, Advocate with Mr. Mihir Mody, Mr. Arnav Misra, Mr. Mayur Jaisingh, Advocates i/b K. Ashar & Co. for the Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer  
Justice M. T. Joshi, Judicial Member

Per : Justice M. T. Joshi, Judicial Member

1. Aggrieved by the order of the learned Whole Time Member (hereinafter referred to as 'WTM') of the respondent Securities and Exchange Board of India (hereinafter referred to as 'SEBI') dated July 8, 2020 restraining the appellant (noticee no. 13 before the learned WTM) from accessing the securities market and prohibiting from dealing in the securities for a period of seven years, the present appeal is preferred.

2. The appellant is the son of the original noticee no. 3 Indira Karkera. During the relevant period, Indira Karkera was the vice president and the client manager of noticee no. 1, Sharepro Services (I) Pvt. Ltd. (hereinafter referred to as 'the company'). This company is a SEBI registered registrar to an issue and share transfer agent. Indira Karkera being the vice president as well as the client manager was the interface between Registrar and Transfer Agent (RTA). One Mr. G. R. Rao, noticee no. 2 was the managing director. The allegations are that noticee no. 3 Indira Karkera as well as Mr. G. R. Rao alongwith 24 other noticees including the present appellant had misappropriated the dividend of genuine shareholders as given in the summary at paragraph no. 13 of the impugned order to the tune of Rs. 1,40,90,923/-. Further, they had misappropriated shares by committing irregularities with respect to transfer, transmission, buy-back, etc. of the various companies as detailed

valued at Rs. 60,45,74,718.15 as detailed in paragraph no. 18 of the impugned order.

3. The gist of the allegations is that Indira Karkera and Mr. G. R. Rao had siphoned the amount. Particularly Indira Karkera had diverted money so received in the various accounts of her family members including her husband, driver, employee, brother-in-law, etc. So far as the present appeal is concerned, it was found that in appellant's bank account debenture redemption payment of Rs. 19,85,627.93 was diverted as on April 12, 2013. This amount was further transferred to the account of noticee no. 3 Indira Karkera on May 29, 2013 held with HDFC Bank, therefore, the appellant was also arrayed as noticee no. 13.

4. The learned WTM considered the material on record. The appellant did not appear before the learned WTM despite service of notice nor he attended the hearing. The learned WTM considering the material as above passed the impugned order. Hence the present appeal.

5. We have heard Mr. Kunal Katariya, the learned counsel with Mr. Tomu Francis, Mr. Arka Saha, Ms. Zarnaab Aswad, the learned counsel for the appellant and Mr. Vishal Kanade, the learned counsel

with Mr. Mihir Mody, Mr. Arnav Misra, Mr. Mayur Jaisingh, the learned counsel for the respondent.

6. Learned counsel for the appellant submitted that, in fact, when the account in appellant's name was opened with the bank the appellant was minor. Even after he attained the majority, his mother, original noticee no. 3 Indira Karkera used to operate the said account. He adverted the attention of the Tribunal to the copy of the order passed by the Additional Session Judge of Greater Bombay dated March 30, 2019 whereunder the anticipatory bail was granted to the appellant. The said order copy is filed in the appeal. In paragraph no. 11 of the order, it is noted that the Additional Session Judge had inquired with the investigating officer who stated to the Additional Session Judge that the account was opened by noticee no. 3 Indira Karkera while the appellant was minor and the amount in dispute was also transferred under the signature of the noticee no. 3 Indira Karkera though the appellant had attained majority. Considering the statement of the Investigating Officer, and the circumstances relevant to grant of anticipatory bail Additional Session Judge had granted anticipatory bail. In such circumstances, it is submitted that the appellant is not involved in the misappropriation of the amount, the order be set aside.

7. On the other hand, Mr. Vishal Kanade, the learned counsel for the respondent SEBI submitted that ample opportunity was granted by the learned WTM to the appellant to plead his case before the learned WTM. Now, in appeal relying on the certain statement of the investigating officer made to the Additional Session Judge who was considering the case on the ground of anticipatory bail, the appellant wanted that the appeal be allowed. He submitted that the appellant has not placed any material on record before the learned WTM nor the statement made by the investigating officer can be relied in the appeal.

8. Having heard both the sides, in our view, there is no merit in the appeal. The appellant failed to appear before the learned WTM and place his case with documentary evidence to show that even after he attained the majority his mother, noticee no. 3 Indira Karkera was operating his account and as to how either he or himself or the bank allowed noticee no. 3 Indira Karkera to operate the account even after the appellant attained majority. Considering all the facts and circumstances on record, the following order :-

**ORDER**

9. The appeal is hereby dismissed without any order as to costs.

10. The present matter was heard through video conference due to Covid-19 pandemic. At this stage it is not possible to sign a copy of this order nor a certified copy of this order could be issued by the Registry. In these circumstances, this order will be digitally signed by the Private Secretary on behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Parties will act on production of a digitally signed copy sent by fax and/or email.

Justice Tarun Agarwala  
Presiding Officer

Justice M. T. Joshi  
Judicial Member

25.02.2022  
PTM