

IN THE COURT OF THE I ADDL. CHIEF METROPOLITAN
MAGISTRATE, CITY CRIMINAL COURT,
NAMPALLY, AT HYDERABAD

C.C. No. 540 /2008



Between:

State of Andhra Pradesh,
Rep. By the Authorized Officer,
(under Section 58-E of the RBI Act, 1934)
Sri. T. Krishna Raju,
Inspector General of Police (CID),
Andhra Pradesh,
Hyderabad.

..Complainant

And

1. M/s Margadarsi Financiers,
A proprietary concern,
Rep. by its Proprietor,
Sri. Ch. Ramoji Rao,
S/o Late Ch. Venkata Subba Rao,
Aged about 71 years,
5-10-195, Fateh Maidan Road,
Hyderabad - 500 004.

2. Sri. Ch. Ramoji Rao,
S/o Late Ch. Venkata Subba Rao,
Aged about 71 years,
5-10-195, Fateh Maidan Road,
Hyderabad - 500 004.

.. Accused

Date of offence : with effect from December, 1997 and
continuing till date

Nature of offence :The accused violated Section 45(S)
(1) (i) and (ii) and Section 45 (S) (2) of
Reserve Bank of India Act, 1934 and
consequently liable for prosecution under
Section 58(B) (5A) read with Section 58 (E)
of Reserve Bank of India Act, 1934

Place of offence : Hyderabad

Name of the Police Station : Saifabad P.S. limits

Witnesses : 1. Complainant
2. Any other person with the leave of the
court


COMPLAINT FILED UNDER SECTION 200 OF
CRIMINAL PROCEDURE CODE, 1973 READ WITH SECTION
45(S), 58 A, 58 (B) 5A AND SECTION 58(E) OF
RESERVE BANK OF INDIA ACT, 1934

1. The complainant herein is Sri. T. Krishna Raju. He is authorized by the Sate Government, by G.O.Ms.No. 801 (General Administration) (LO&I) Department dated 19th December, 2006, to file appropriate applications in the competent courts of jurisdiction and inter-alia to take action under Section 58(E) of the Reserve Bank of India Act, 1934. He is competent to file this complaint.

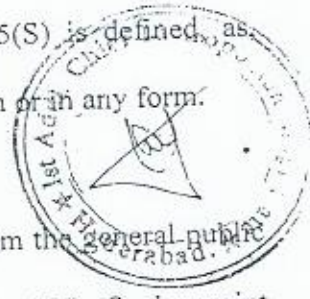
2. Reserve Bank of India Act, 1934 hercin after referred to as Act, is an Act to regulate, inter-alia the currency and credit system of the country to its advantage. Chapter III-C of the Act dealt with prohibition of acceptance of deposits by unincorporated bodies. The expression unincorporated bodies was not defined in the Act. But, the word "Corporation" is defined in the Act as meaning "a corporation incorporated" by an Act, of any legislature. Therefore, all such bodies which are not incorporated under any legislation are to be treated as unincorporated bodies. The first accused is one such body. The second accused is its proprietor.

3. It is submitted that under Section 45(S) of the Act, with effect from 1st April, 1997, no person being an individual or a firm or an unincorporated association of individual shall accept any deposit, if his or its business wholly or partly includes any of the activities specified in clause © of Section 45(1) of the Act or his or its principal business is that of receiving

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deposits under any scheme or arrangement or in any manner or lending in any manner. "The deposit" referred to in Section 45(S) is defined as including any receipt of money by way of deposit or loan or in any form.




4. The accused have been receiving the deposits from the general public in violation of Section 45(S) with effect from 1st April, 1997. Such receipt of deposits is the principal business of the accused. The accused have been doing business with these deposits in financing, acquisition of shares and in different companies, institutions. The accused thus violated Section 45(S) of the Act. It is submitted that none of the persons from whom the accused has received the deposits are related to the second accused to any one of his family members in any manner, what so ever. The said depositors are not "relatives" with in the meaning of that expression 'relative', in the Explanation to Section 45 (S) (3) of the Act.

5. The accused received the deposits as its principal business in three forms, namely as **fixed deposits**, **Cumulative Scheme certificate** and as **six and half years of cash certificate**. The accused had used printed application distinct forms for receipt of the deposits in the said three categories. In each of such applications the Rules and Regulations were stipulated subject to which the fixed deposits are received. The application forms, so used, by the accused are filed along with this complaint as **Annexure Exhibits** 1 to 3. A perusal of these application forms and the Rules and Regulations, printed overleaf, show that the accused have been receiving these deposits, as their principal business.

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6. It is submitted that under Section 45(S) (2) of the Act, where any person, like the accused, holds any deposit, as on 1st April, 1997 the date on which the Amendment to Section 45(S) of the Act, came into force, in violation of Section 45 (S) (1), such deposit shall be repaid immediately after such deposit becomes due for repayment or within three years, from 1st April, 1997 the date of commencement of the said amended provision to Section 45(S) of the Act, whichever is earlier. The accused who have been holding the deposits in violation of Section 45(S) (1) by 1st April, 1997, therefore are under a legal obligations liable to repay all such deposits, at the latest by 1st April, 2000, by which date three years period was over. They failed in this regard and did not repay the existing deposits by 1st April, 2000. The accused however, notwithstanding the prohibition continued to collect deposits in violation of Section 45(S) (1) even after 1st April, 1997 till November, 2006 and have been holding the said deposits in violation of Section 45 (S) (2) of the Act. Thus the accused has violated Section 45(S) (1) and Section 45(S) (2) of the Act. The accused is liable to repay to the depositors, all the deposits, of every kind, received by them forthwith. The accused cannot in law continue to hold these deposits and such holding of the deposits, in law, is in violation of Section 45(S) (2) of the Act.

7. It is submitted that under Section 58-B (5A) of the Act, if any person, like the accused, contravenes any of the provisions of Section 45(S), he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to twice the amount of deposit received by such person, or two thousand rupees which ever is more or with both. The second accused has been in-charge of and is responsible in the conduct



of the business of acceptance of deposits by the first accused. Therefore, both the accused are guilty of the contravention, default and violation of the provisions contained in Section 45(S) (1) and (2) and are liable for prosecution under Section 58-B (5A) of the Act.




8. It is submitted that the accused and M/s Usha Kiron Movies Ltd., has filed W.P. 27065/2006 in the Hon'ble High Court of Andhra Pradesh challenging, inter-alia, the said G.O.Ms.No. 801 dated 19th December, 2006. The accused also filed W.P.M.P. 34786/2006 seeking stay of all further proceedings pursuant to the said G.O. A Division Bench of the Hon'ble High Court of Andhra Pradesh by order dated 25th January, 2007, inter-alia dismissed the said W.P.M.P. It is submitted that the accused carried the matter to the Hon'ble Supreme Court of India by filing Special Leave Petition (Civil) No. 2847 of 2007. The said SLP is pending disposal.

9. It is submitted that Section 45 (T) of the Act empower the issuance of search warrants to search and seize documents relating to the acceptance of deposits in contravention of the provisions of Section 45(S) of the Act. The complainant is authorized by the State Government under the said G.O.Ms. No. 801 dated 19th December, 2006, to apply for a search warrant under this provision. Complainant filed Crl.P. 565 of 2007 on the file of I Addl. Chief Metropolitan Magistrate, Hyderabad for the issuance of a search warrant to search the premises of the accused from where they had accepted the deposits and carried on the business of such acceptance of deposits. A copy of the search application is filed as ^{Annexure} Exhibit-4 and the same may be read as part of this complaint. The learned I Addl. Chief Metropolitan Magistrate,

Hyderabad by order dated 21st February, 2007 issued search warrants. The said order is ^{Annexure} Exhibit-5. Pursuant to the said search warrant, the complainant and his team of police officials had searched the premises of the accused from where they had carried on the said business of the acceptance of deposits. They had seized the documents relating to the acceptance of deposits by the accused, which were at the premises of the accused, under a panchnama. All these documents ^{relate to} ~~relate to~~ the acceptance of deposits ^{by the accused} in contravention of Section 45(S) (1). The seizure report in this regard along with the list of seized documents is filed as ^{Annexure} Exhibit-6. Copies of all the seized documents are kept in 301 trunk boxes and 12 cartons. It is submitted that each of these boxes and the cartons contain a list of the copies of the documents contained in each of the boxes and cartons. The said lists may be read as part of this complaint. The complainant undertakes to file the exhibits 7 to 319 during the course of the proceedings. The lists of documents in each of the boxes and cartons are filed as ^{Annexure} Exhibits 7 to 319.


The originals of these documents in these boxes and the cartons are already delivered to the accused.

10. It is submitted that the accused had, filed CrI.R.P. 33 of 2007 before the I Addl. Metropolitan Sessions Judge, City Criminal Court, Hyderabad as against the order dated 21st February, 2007 in CrI.M.P.567 of 2007 issuing the search warrants by the I Addl. Chief Metropolitan Magistrate, Hyderabad. The learned I Addl. Metropolitan Sessions Judge, Hyderabad by order dated 14th March, 2007 dismissed the said Criminal Revision Petition. The said order of the learned I Addl. Metropolitan Sessions Judge, Hyderabad is filed as ^{Annexure} Exhibit-320.



11. It is submitted that accused carried the matter before Hon'ble High Court and filed Cri.P. 1828 of 2007 to quash, the said order dated 14th March, 2007, of I Addl. Metropolitan Sessions Judge, Hyderabad. The Hon'ble High Court of Andhra Pradesh by order dated 1st May, 2007 allowed the said Criminal Petition subject to certain conditions. The relevant portion of the said order of the Hon'ble High Court of A.P. is as follows:

"In the result, the Criminal Petition is allowed. The order of the learned Magistrate, dated 21-02- 2007 and the order passed by the Revisional Court to the extent of confirming the order of the learned Magistrate are set aside subject to the condition that the respondents shall furnish copies of all the documents relating to the acceptance of the deposits pending with them as on today. The learned Magistrate shall release all the documents seized by the petitioner in pursuance of the order passed by the said court in favour of the respondents after permitting the Authorized Officer to take copies of such documents, which relate to acceptance of deposits from the depositors. However, it is made clear that this order will not come in the way of the Authorized Officer to proceed against the respondents according to law if there is any violation of any of the provisions of the RBI Act subject to the outcome of the writ petitions and the directions of the Hon'ble Supreme Court.



12. It is submitted that the accused had not furnished to the complainant the copies of all the documents relating to the acceptance of deposits, pending with them as on the date of the order of the Hon'ble High Court.

13. The accused, after the disposal of the quash proceedings by the High Court filed a Memo on 3rd May, 2007 before the In-charge Magistrate of I Addl. Chief Metropolitan Magistrate, Hyderabad (FAC) bearing SR. No. 2777/2007 requesting the In-charge Magistrate to pass appropriate orders pursuant to the order of the Hon'ble High Court in the said quash proceedings. The learned In-charge Magistrate, passed an order on 4th May, 2007, without any notice to the complainant, directed the complainant, to release all the documents seized by him, after obtaining the copies of any such documents which relate to acceptance of deposits, by not later than 18th May, 2007. As against this order the complainant filed Crl.R.P. 74/2007, on the file of I Addl. Metropolitan Sessions Judge, Hyderabad. The learned Sessions Judge by order dated 26th June, 2007 dismissed the said Revision petition observing, inter-alia, that the revision petition was not maintainable as order impugned was interim order. The complainant filed Crl.P. 4284/2007 in the Hon'ble High Court of A.P. against the said orders of the learned I Addl. Metropolitan Sessions Judge, Hyderabad. The Hon'ble High Court of A.P. by order dated 19th July, 2007 in Crl.P. 4284/2007 suspended the above referred order of learned Magistrate, under which 18th May, 2007 was fixed, as the time limit for releasing the original seized documents to the accused. The said memo filed on behalf of the accused, orders passed by the In-charge Magistrate on the said Memo, the said order of the learned



Sessions Judge in the revision and the said interim order of the Hon'ble High Court, are filed, as ^{Annexures} Exhibits 321, 322, 323 and 324 respectively.

14. It is submitted that pursuant to the orders of the said Hon'ble High Court in the Crl.M.P. 1828/2007 filed by the accused, the complainant took copies of all the seized documents, so as to release the originals, to the accused, as directed by the Hon'ble High Court in the said Cri.P. 1828/2007. Accordingly, all the original seized documents have been released to the accused and the complainant has taken copies of the same. All these documents relate to the acceptance of deposits by the accused. These are all the copies of the documents which are filed in trunk boxes and cartons and which are ^{filed} marked as ^{Annexures} Exhibits 7 to 319

15. It is submitted that the State Government by G.O.Rt.No. 1309 dated 26th July, 2007 appointed a team of auditors to assist the complainant in analyzing the documents seized by the complainant. The complainant had furnished to the auditors so appointed access to the said documents seized which relate to the acceptance of deposits and also supplied to them the data and record furnished by the complainant in the pending proceedings. The auditors had submitted their report,

^{G.O} The said ^{may be read as part of this complaint, and it is filed as Annexure 325.}

16. It is submitted that search proceedings, were already filed in this Hon'ble Court, in the said Crl.P. 565/2007. A true copy of the said proceedings certified as such by the complainant, is filed along with this complaint and it is ^{filed} marked as ^{Annexure} Exhibit-6. The original list of seized

documents is also filed in the said Cr.P. 565/2007. A copy of the said list is filed along with this complaint and it is ^{filed} ^{Annexure} marked as Exhibit- 6. It is submitted that all the seized documents consist of copies of the application forms utilized by the accused for acceptance of deposits, copies of Fixed Deposit Receipts or other deposit receipts, copies and originals of Form-15G (under the Income Tax Act) given by the depositors and other documents, which all relate to the acceptance of deposits by the accused.

17. It is submitted that the seized documents include a copy of the computer hard disc, through which the accused, conducted their business and accepted the deposits. The said hard disc contained data relating to the acceptance of deposits by the accused. The said data was retrieved from the said hard disc by taking the help of technical personnel from Forensic Science Laboratory, Government of A.P. They analyzed the hard disc and gave a report on the contents of the data contained in the said hard disc. The said report is filed along with this complaint and is ^{filed} ^{Annexure} marked as Exhibit-326.

18. It is submitted that the files stored by the accused in the hard disc relate to the acceptance of deposits. The said details as stored by the accused in the said hard disc have been copied. The accused had maintained three types of files in this hard-disc namely, FDRs (current), FDRC(refunds), CCSC(current) and CCCSE(refund). The FDR(current) consisted 15,164 pages. It is bundled into 30 books. The said books are filed along with this complaint and are ^{filed} ^{Annexure} marked as Exhibits- 327 to 356. FCR(refunds) consisted of 23,933 pages. They are bundled into 48 books. They are filed along with this complaint and ^{filed} ^{Annexure} marked as Exhibits- 357 to 404.

CCSC(current) consisted of 7,817 pages. They are bundled into 16 books. They are filed along with this complaint and are marked as Exhibits 405 to 420. CCCSC(refunds) consisted of 17,318 pages. It is bundled into 35 books. The said books are filed along with this complaint and are marked as ^{Annexure} Exhibits 421 to 455.

19. It is submitted that the business of acceptance of deposits conducted by the accused is of huge magnitude. It is spread-over around two and half lakh depositors, all over the State. The complainant got investigated on the details of these depositors. The complainant submits that none of them are related to the accused in any manner what so ever. The complainant got verified about some of the depositors, on this aspect of the matter. The particulars obtained by the complainant from the said depositors, is filed along with this complaint. It is marked collectively as ^{Annexure} Exhibit-456 & 457. The complainant also recorded statements from the said depositors who were thus verified. The said statements obtained from the said depositors is collectively filed as ^{Annexure} Exhibit 458.

20. It is submitted that Margadarsi Financiers Depositors Welfare Association filed W.P. No. 16983 of 2007 in the Hon'ble High Court of A.P. for direction to the complainant that the complainant should not verify the particulars from the depositors. The Hon'ble High Court of A.P. in W.P.M.P 21694 /2007 by order dated 10th August, 2007 directed that there shall not be verification. The particulars of the depositors verified by the complainant and the statements got recorded by the complainant as per ^{Annexure} Exhibits- 456 to 458 were obtained and recorded, before the said interim orders passed by the Hon'ble High Court of A.P.

21. It is submitted that the accused had admitted that they had accepted the deposits from the general public in several of the proceedings, affidavits and statements, given, made or filed, by or on behalf of the accused. In the affidavit filed by the second accused in support of the said W.P. 27065/2006, the second accused, had admitted that "there are about 2.7 lakhs depositors, who made deposits" with the first accused. The same was reiterated by him in the affidavit filed by him in support of W.P. 27403/2006. The affidavits filed in support of these writ petitions are filed as ^{Annexure} Exhibits 459 and 460.

22. It is submitted that the State Government by G.O.Ms.No. 800 dated 19th December, 2006 had appointed Sri.N. Ranga Chary, Advisor to Government (Finance) to examine all the relevant papers and other material and to submit a report to the Government on whether the first accused had raised deposits from the general public. Sri. N. Ranga Chary in his report dated 14th February, 2007 had stated, about the deposits, outstanding with the accused, as here under.

"Deposits outstanding on different dates:

<i>31st March, 2000</i>	-	<i>Rs. 619.25 crores</i>
<i>31st March, 2001</i>	-	<i>Rs. 885.45 crores</i>
<i>31st March, 2002</i>	-	<i>Rs. 1,277.00 crores</i>
<i>31st March, 2003</i>	-	<i>Rs. 1,488.00 crores</i>
<i>31st March, 2004</i>	-	<i>Rs. 1,909.00 crores</i>
<i>31st March, 2005</i>	-	<i>Rs. 2,201.00 crores</i>
<i>31st March, 2006</i>	-	<i>Rs. 2,610.38 crores"</i>

The said report of Sri. N. Rangachary is filed along with this complaint and ^{as Annexure} as Exhibit-461.

23. It is submitted that the second accused in his letter dated 4th April, 2007 addressed to the State Government, had stated with regard to his deposit liability as hereunder.

"Deposit Liability:

To the extent of information available with us, the total deposit liability amounts to :

- a. Rs. 2610.38 crores as on 31-03-2006
- b. Rs. 2853.21 crores as on 20-11-2006
- c. Rs. 2541.59 crores as on 31-03-2007"



The said letter dated 4th April, 2007 is filed and marked as ^{72A} Annexure ~~marked as~~ Exhibit - 462.

24. It is submitted that the accused had accepted the deposits from the general public, who are not related to them, to an extent of around Rs. 2600 crores. The accused claimed, that, they had voluntarily discontinued such acceptance of deposits, including renewals, below rupees one lakh w.e.f. 16th September, 2006 and discontinued acceptance of all deposits and renewals w.e.f. 20th November, 2006. It is submitted that such a discontinuance was because, the acceptance of deposits by the accused violate Section 45(S) of the Act, and has been discovered.

25. It is submitted that the accused had violated Sec. 45-S(1) of the Act. The first accused is not a legal entity. It consisted of association of individuals, who are all the family members of the second accused. These individuals are unincorporated. The second accused is an individual.

26. It is submitted that a Hindu Undivided Family (HUF) is an unincorporated association of individuals. It is not a juristic person. Either as HUF or as individual, the accused are prohibited from acceptance of deposits under Sec. 45-S (1) of the Act. The prohibition contained in Sec.

45-S(1) is absolute and under Section 58-B(5A), for contravention of the provisions of Sec. 45-S, is punishable with imprisonment for a term which may extend to two years or with fine which may extend to twice the amount of deposit received. The prohibition contained and the penalty stipulated there-for, under the Act are absolute and clear. The accused had accepted the deposits in violation of Sec. 45-S(1), inspite of the fact that the Reserve Bank of India had advised them not to accept any deposits, even in 1997. The said communication of the Reserve Bank of India is filed and ^{marked} as ~~marked~~ ^{marked} as ^{Annexure} Exhibit-463. The violation committed by the accused is open and deliberate. The accused are liable for the maximum punishment for the said violation, under Sec. 58-B(5A) of the Act.

27. The accused, accepted the deposits within the territorial limits of this Hon'ble Court. This Hon'ble Court has got jurisdiction to take cognizance of the offence committed by the accused under Sec. 58-E of the Act.

28. It is submitted that the accused have been accepting the deposits since 1997 and the same is a continuing offence and the violation continued till November, 2006. This complaint filed is not barred by time.

29. It is submitted that the complainant Sri. T. Krishna Raju is competent to file this complaint as per the authorization, given to him, by the State Government, vide G.O.Ms.No. 801 dated 19th December, 2006 filed as ^{Annexure} Exhibit -464. The said authorization is continuing.

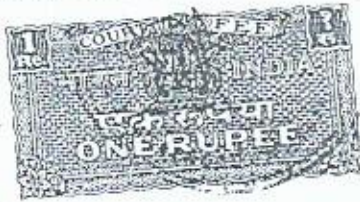
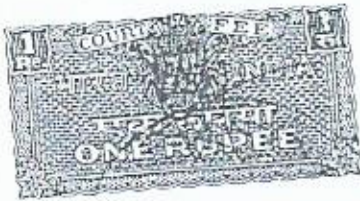
30. It is therefore just and essential that this Hon'ble Court may be pleased to take this complaint on file, issue summons to the accused and punish them for violation of Sec.s 45-S (1) (i) and 45-S(2) of the Reserve Bank of India Act, 1934 and punish them under Section 58-B(5A) of the Act and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Date: 23rd January, 2008
Hyderabad

Complainant
Authorized Officer
Sri.T. Krishna Raju,
Inspector General Police,(CID)
A.P., Hyderabad

LIST OF DOCUMENTS

S.No.	Exhibit Number	Description
1.	Ex.1	Copy of Application for Fixed Deposit (used)
2.	Ex.2	Copy of Application for Fixed Deposit Certificate
3.	Ex.3	Copy of Application for Six and half years of cash certificate
4.	Ex.4	search application
5.	Ex.5	order dated 21 st February, 2007
6.	Ex.6	Seizure report along with the list
7.	Ex.7-319	list of documents containing in each of the boxes Cartons
8.	Ex. 320	Order of I Addl. MSJ dated 14-3-2007 in Crl.R.P. 33 of 2007
9.	Ex.321	Copy of the Memo SR.2777/2007 before in-charge Magistrate
10.	Ex. 322	Order dated 4 th May, 2007 by in-charge Magistrate



IN THE COURT OF 1 ADDL.
CHIEF METROPOLITAN
MAGISTRATE,
CITY CRIMINAL COURT,
HYDERABAD

~~S A 423/08~~

C.C. of 2008

~~23/1/08
CHECK & POST UP~~

~~1st Addl. CMM~~

COMPLAINT FILED UNDER
SECTION 200 OF Cr.P.C. r/w
SECTION 45(S), 58-A 58(B)5A
AND SEC. 58-E OF RBI ACT, 1934

Filed by :
Sri. S. Satyanarayana Prasad
Special Public Prosecutor