(2021) 12 TEL CK 0051

In the Telangana High Court

Case No : Writ Petition Nos. 40775, 40962 Of 2018

Cyber City Computers APPELLANT

Vs

State Of Telangana RESPONDENT

Date of Decision : 20-12-2021

Acts Referred:

Constitution Of India, 1950 — Article 14, 20(1), 21
Telangana Protection Of Depositors Of Financial Establishment Rules, 1999 — Rule 5, 5(2), 9
Andhra Pradesh Reorganisation Act, 2014 — Section 3, 101
Telangana Protection Of Depositors Of Financial Establishment Act, 1999 — Section 2(a), 4, 4(2), 5, 18, 18(1)
Indian Penal Code, 1860 — Section 120B, 409, 420
Code Of Criminal Procedure, 1973 — Section 173, 482
Bombay Rent Act, 1947 — Section 15A
Employees? State Insurance Act, 1948 — Section 45B

Citation : (2021) 12 TEL CK 0051

Hon'ble Judges : Satish Chandra Sharma, CJ;A. Rajasheker Reddy, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Both the writ petitions were heard together and are being disposed of by this common order as the issue involved in both the writ petitions is one and the same.

The petitioners before this Court have filed the present writ petitions challenging the validity of G.O.Ms.No.99, dated 05.09.2018 issued by the State of Telangana amending Rule 5(2) of the Telangana Protection of Depositors of Financial Establishment Rules, 1999 (for short, the Rules) validating with retrospective effect in respect of all prosecutions launched under the provisions of the Telangana Protection of Depositors of Financial Establishment Act, 1999 (for short, Act No.17 of 1999) to the effect of empowering any Police Officer not below the rank of Inspector of Police to launch prosecution under the Act No.17 of 1999 and the Rules framed thereunder.

The petitioners' contention is that the amendment, which has been made with retrospective effect, is arbitrary, illegal and ultra vires the Act No.17 of 1999 offending Article 21 of the Constitution of India. It has been further contended that the erstwhile State of Andhra Pradesh enacted the Act No.17 of 1999 to protect the deposits made by the public in financial establishments and matters connected therewith or incidental thereto. The State of Telangana after its formation in exercise of powers conferred under Section 101 of the Andhra Pradesh Reorganisation Act, 2014 issued a G.O.Ms.No.81, Home (Legal) Department, dated 21.05.2016 adapting the aforesaid Act without any modifications. It has been further contended that in the year 2002, Sri Bhale Rao, IAS, Registrar of Cooperative Societies, lodged a complaint before the Deputy Superintendent of Police, Crime Investigation Department (CID)/third respondent in respect of irregularities relating to disbursement of loans by the elected board officials of Charminar Cooperative Urban Bank Limited. It was alleged that the Management has played fraud and has committed misappropriation and consequently, a crime was registered vide F.I.R.No.3 of 2002, dated 25.02.2002 under Section 5 of the Act No.17 of 1999 read with Sections 420 and 409 of Indian Penal Code (IPC). It has been further stated that initially the Sub Inspector of Police registered the crime and later on the Deputy Superintendent of Police (City Zone), Crime Investigation Department, Hyderabad has carried out the investigation and filed charge sheet and the Metropolitan Sessions Judge took cognizance under Section 5 of the Act No.17 of 1999 read with Sections 120B, 420, 409 IPC registering a case vide Calendar Case No.6 of 2002.

The petitioners have further stated that as per the definition clause as contained under Section 2(a) of the Act No.17 of 1999, the 'competent authority' means the authority appointed under Section 4 of the Act and Section 4 of the Act empowers the Government to appoint an authority to perform the functions of the competent authority for the purposes of the Act and the Rules framed thereunder. The petitioners further stated that the Government appointed and designated District Magistrates of all the Districts and the Commissioners of Police in respect of the cities Hyderabad, Visakhapatnam and Vijayawada as 'competent authority' for the purposes of various functions under the Act and the Rules. The petitioners further stated that the investigation relating to such offences were also being handed over to the Crime Investigation Department and the State Government issued G.O.Ms.No.193, dated 23.08.2001 designating Additional Director General of Police, CID or Inspector General of Police, CID as competent authority in respect of cases investigated by CID. The petitioners further stated that the Additional Director General of Police, CID, which is the competent authority to initiate further steps under the Act No.17 of 1999 and the Rules, is also vested with powers of control in respect of properties sought to be attached under the Act as well as to initiate prosecutions before the Special Court for the offences under the Act No.17 of 1999 upon its satisfaction about the entity's violation of the provisions of the Act No.17 of 1999.

The petitioners further stated that the petitioner No.1 is accused No.89 being a company involved in the activities of software and hardware in computers of which the petitioner No.2 is a partner of the petitioner No.1 firm. The petitioners participated in the investigation. It has been further stated that the petitioner No.1 is a loanee and the petitioner No.2 is the partner of the firm. It has been stated that the petitioner No.2 was arrested on 03.07.2002 and was released on bail on 19.07.2003.

The petitioners further stated that the charge sheet was filed before the Metropolitan Sessions Judge, Hyderabad (Special Court under Act No.17 of 1999) on 12.06.2002 and the Special Court took cognizance on 22.06.2002 and the petitioners preferred a criminal petition under Section 482 of Code of Criminal Procedure (CrPC) for quashment of the charge sheet vide Criminal Petition No.4253 of 2015 and the same is pending for adjudication before this Court. The petitioners even though have preferred a criminal petition for quashment of the proceedings have preferred the present writ petition also. It has been further stated that the petitioners preferred an application i.e., CrlPMP No.9 of 2018 for discharge and the said application for discharge came up for hearing on 02.11.2018 and the prosecution has placed on record G.O.Ms.No.44, dated 24.03.2017 and G.O.Ms.No.99, dated 05.09.2018. It was argued before the Special Court that the Special Judge does not have the power to declare the amendment as ultra vires and therefore, the petitioners were left with no other choice except to file the writ petition challenging the constitutional validity of G.O.Ms.No.99, dated 05.09.2018 as ultra vires the Act No.17 of 1999. It has been contended by the petitioners that the Act No.17 of 1999 itself does not have its applicability with retrospective effect and the amendment done by the State Government makes the pending proceedings infructuous before the Special Court including the petitioners' application for discharge filed in January, 2019.

The petitioners further contended that the impugned amendment seeks to validate the prosecution which otherwise is incompetently launched and was not maintainable in law and therefore, as retrospective effect has been given to the amendment amending the statute, the same deserves to be declared as ultra vires. Another ground has been raised by the petitioners that the amendment is violative of the Article 20(1) and Article 21 of the Constitution of India as it infringes the fundamental right of a fair trial. The petitioners further stated that this Court in its Judgment delivered on 01.04.2015 in Criminal Appeal No.1576 of 2005 and batch held that any amendment to the charges implicating Section 5 of the Act No.17 of 1999 can only be by the competent authority named and designated under the statutory rules against an accused and set aside the convictions against the accused under Section 5 of the Act No.17 of 1999. The petitioners further stated that the S.L.P., was preferred by the State of Telangana before the Hon'ble Supreme Court, i.e., S.L.P.No.4633-4646 of 2017 and the same were dismissed on the ground of delay as well as on merits vide Order dated 24.03.2017. The petitioners' further contention is that the impugned amendment has the effect of nullifying the said Judgment and therefore, the same is impermissible in law. Therefore, the petitioners prayed for the following relief:-

"For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a writ, order, direction more particularly one in the nature of writ of mandamus, declaring the second proviso to Rule 5(2) of Telangana Protection of Depositors Financial Establishment Rules, 1999, introduced vide the impugned G.O.Ms.No.99, dated 5.9.2018 as ultra vires Act 17 of 1999 as illegal, arbitrary, offending Article 14 and Article 21 of the Constitution and consequently quash the same as such with a consequential direction to the respondents not to give effect to the said proviso in respect of the prosecutions initiated prior to 24.3.2017, i.e., the date on which Officers not below the rank of Inspector of Police were notified as competent authority under Act 17 of 1999 and to pass such other order or orders as this Hon'ble Court may deem fit just proper in the circumstances of the case."

The learned counsel for the petitioners has placed reliance upon a Judgment delivered in the case of State of Karnataka v. Karnataka Pawn Brokers Association (2018) 6 SCC 363. Heavy reliance has been placed upon paragraph 25 of the aforesaid Judgment and it has been argued that the Legislature cannot set at naught the Judgment, which has been pronounced, by amending the law.

A counter affidavit has been filed by the State Government stating that the writ petition has been filed only with a view to protract the litigation and to save white collar offenders. It has been stated that the petitioners have not been able to point out the prejudice caused to them on account of the amendment. It has been stated that under the Code of Criminal Procedure, 1973 (CrPC), when a complaint is received by the police, it is investigated and a final report under Section 173 CrPC is filed and thereafter, the Magistrate concerned having jurisdiction takes the cognizance of the matter. It has been further stated that whether a person is guilty or not has to be looked into only after the trial and on account of alleged procedural irregularity, as pleaded by the petitioners, the entire scam cannot be quashed by giving a clean chit to the petitioners.

Reliance has been placed by the Judgment delivered in the case of T.Barai v. Hentry Ah Hoe AIR 1983 SC 150 and it has been contended that the act, which is subject matter of the crime was certainly an offence earlier also and is an offence under the amendment also and it is nobody's case that by amending the Act, the act committed by the petitioners has been made an offence by amending the law retrospectively. It has also been contended that any law relating to retrospective nature of procedural aspects would not create any vested right to the litigant as it does not affect the rights guaranteed under the Constitution of India either under Article 20(1) or under Article 21 of the Constitution of India. It has been stated that a procedural law should not ordinarily be construed as mandatory. The procedural law is always subservient to and is an aid to justice. Any interpretation which eludes or frustrates the recipient of justice is not to be followed. It has been further stated that procedural law is not a tyrant but a servant, not an obstruction but an aid to justice. Procedural prescription is the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice. The amendment in the procedural law has been done with retrospective effect to remove the difficulties in implementation of a statute whose objects would get defeated in the absence of such amendment of procedural provisions. It has been further stated that in the case on hand, the investigation is done by the officer of the Competent Authority as contemplated under the provisions of the Act No.17 of 1999, not below the rank of an Inspector of Police, namely the Deputy Superintendent of Police of the CID and the final report is also filed by him and therefore, the amendment done by the State would not in any way alter the situation of the factual matrix of the case on hand and the entire exercise by the petitioners is to ensure that they are not subjected to trial on some pretext or the other.

The State Government further stated that the present case is a case of criminal conspiracy entered among the Chairman and Board of Directors, Managing Director and the staff of Charminar Cooperative Urban Bank dealing with sanction of loans. Valuators and legal professionals in connivance with borrowers have siphoned huge amounts of the bank and the properties mortgaged with the Bank were grossly overvalued by the valuators of the Bank and the same was accepted by the Bank. The accused persons have misappropriated the amount and cheated the Bank and it is a large scale fraud. The petitioners want to get away with the misdeeds by taking technical objections. It has been further stated that as per Rule 9 of the Rules, 1999 the Government has been empowered to remove the difficulties if arise and since the difficulty has arisen, G.O.Ms.No.347, dated 29.10.1999 has been replaced by G.O.Ms.No.44, dated 24.03.2017 wherein as per Rule 5(2) of the Rules, 1999 the competent authority is any police officer not below the rank of Inspector of Police to launch prosecution before the Special Court against the financial establishments and any person responsible for the Management of the affairs of the financial establishment including the promoter, Manager or member of financial establishment for levy of penalty under Section 5 of the Act No.17 of 1999.

It has been further stated by the State Government that the first petitioner is a company of which the second petitioner is the partner and the first petitioner is the loanee and they have submitted fictitious and fake documents fraudulently and obtained a loan for Rs.65,00,000/- (Rupees sixty five lakhs only) from the Charminar Cooperative Urban Bank by affixing a photo of late Sri Janardhan Rao. The petitioners were accused persons in this case, they were arrested and after they were released on bail, they repaid the entire loan amount to the Bank. However, the criminal deeds under the law by no stretch of imagination can be ignored. It has been further stated that as per G.O.Ms.No.44, dated 24.03.2017, any police officer not below the rank of Inspector of Police has been authorised to launch prosecution before the Special Court. The Deputy Superintendent of Police is the officer, above rank of Inspector of Police who has filed the charge sheet and therefore, the question of interference in a criminal case at the stage of trial on the ground raised by the petitioners does not arise.

It has been further stated that under Rule 9 of the Rules, 1999 the Government is empowered to remove difficulties if arise and as difficulty has been arisen to implement the G.O.Ms.No.44, dated 24.03.2017, the Government has carefully examined the matter and accordingly issued G.O.Ms.No.99, dated 05.09.2018 to protect the interest of the depositors (victims) and the same reads as under:-

"G.O.Ms.No.99, dated 05.09.2018, wherein two provisos are added to Rule 5(2) and the second proviso, the proviso herein provided further that all the prosecutions launched under this Act shall be deemed to be launched by the competent authority or any police officer not below the rank of Inspector of Police".

It has been stated by the State Government that the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh has issued show cause notice before admission to the respondents and the interim suspension was granted for a period of six weeks and thereafter, the interim order was extended. However, it does not mean that the amendment is illegal and ultra vires. The respondents have also stated that it has become the trend of the day to cheat the depositors and in large number of cases, like Agri Gold, the Telegraph Traffic Employees Cooperative Credit Society Limited and Mani Kanta Cooperative Bank Limited, a fraud was played upon depositors and the petitions filed by them have been dismissed by the High Court. It has been further stated that because of the interim order granted by this Court, the State is not able to proceed ahead in the matter. There are large number of depositors like senior citizens, persons suffering from terminal diseases and therefore, the interim order deserves to be vacated and the writ petitions itself deserve to be dismissed.

Heard the learned counsel for the parties at length and perused the records. The matter is being disposed of with the consent of the parties at admission stage itself.

The petitioners before this Court have filed the present writ petitions challenging the validity of G.O.Ms.No.99, dated 05.09.2018 issued by the State of Telangana amending Rule 5(2) of the Telangana Protection of Depositors of Financial Establishments Rules, 1999 validating with retrospective effect in respect of all the prosecutions launched under the provisions of Telangana Protection of Depositors of Financial Establishments Act, 1999 to the effect of empowering any police officer not below the rank of Inspector of Police to launch prosecutions under the Act No.17 of 1999 and the Rules made thereunder.

The Andhra Pradesh Protection of Depositors of Financial Establishments Act, 1999 was enacted to safeguard the interest of depositors who were being cheated by unscrupulous financial establishments in the State and were put to grave hardship by losing their hard earned savings. The aforesaid Act was enacted to curb the malpractices of unscrupulous financial establishments and to protect the deposits made by the public in financial establishments and other matters connected with it.

After Reorganisation of Andhra Pradesh under the Andhra Pradesh Reorganisation Act, 2014, the Telangana State Government adapted the Act No.17 of 1999 for the State of Telangana and a Notification to this effect has also been issued vide G.O.Ms.No.81, dated 21.05.2016, which is reproduced as under:-

"GOVERNMENT OF TELANGANA

ABSTRACT

ACTS - Adaptation - The Andhra Pradesh Protection of Depositors of Financial Establishment Act, 1999 - Adaptation to the State of Telangana - Orders - Issued.

HOME (LEGAL) DEPARTMENT

G.O.Ms.No.81

Dated 21.05.2016

Read the following:-

1. The Andhra Pradesh Protection of Depositors of Financial Establishment Act, 1999.

2. From the Director General of Police, Telangana State Lr.Rc.No.211/R6/2015, dt. 30.11.2015.

ORDER:

Whereas by Section 101 of the Andhra Pradesh Reorganization Act, 2014, the appropriate Government i.e., the State of Telangana is empowered by order, to make such adaptations and modifications of any law made before 2.6.2014, whether by way of repeal or amendment as may be necessary or expedient, for the purpose of facilitating the application of such law in relation to the State of Telangana, before expiration of two years from 2.6.2014.

2. And whereas, it has become necessary to adapt and modify/amend the Andhra Pradesh Protection of Depositors of Financial Establishment Act, 1999 for the purpose of facilitating its application in relation to the State of Telangana;

3. Accordingly, the following Notification will be published in the extraordinary issue of the Telangana State Gazette, dated 25.05.2016.

NOTIFICATION

In exercise of the powers conferred by Section 101 of the Andhra Pradesh Reorganisation Act, 2014 (Central Act No.6 of 2014), the Governor of Telangana hereby makes the following order, namely:-

1. (1) This Order may be called the Andhra Pradesh Protection of Depositors of Financial Establishment Act, 1999 (Telangana Adaptation) Order, 2016.

(2) It shall come into force with effect from 2nd June, 2014.

2. For the purpose of this Order and the Act adapted herein, the expression "the State" shall have the meaning and area as specified in Section 3 of the Andhra Pradesh Reorganisation Act, 2014.

3. In the Andhra Pradesh Protection of Depositors of Financial Establishment Act, 1999:-

Throughout the Act, for the words "Andhra Pradesh" occurring otherwise than in a citation or description or in title of other enactments, the word "Telangana" shall be substituted.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

ADHAR SINHA

PRINCIPAL SECRETARY

TO GOVERNMENT (FAC)"

The Act No.17 of 1999 provides for attachment of properties on default in respect of deposits and it also provides for constitution of Special Courts. Section 18 of the Act No.17 of 1999 empowers the State Government to make Rules. Section 18 of the Act No.17 of 1999 reads as under:-

"18. Power to make Rules:- (1) The Government may, by notification make Rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall immediately after it is made, be laid before the Legislative Assembly of the State, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the season immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

Section 4 of the Act No.17 of 1999 deals with Competent Authority to be appointed by the State Government and the same is reproduced as under:-

"4. Competent Authority:- (1) The Government may, by notification, appoint an authority hereinafter called "the competent authority" to exercise control over the properties attached by Government under Section 3.

(2) The Competent authority shall have such other powers and discharge such other functions as may be prescribed, in addition to the powers and functions specified under this Act.

(3) Upon receipt of the orders of the Government under Section 3, the Competent Authority shall apply within fifteen days to the Special Court constituted under this Act for making the ad-interim order of attachment absolute.

(4) An application under sub-section (3) shall be accompanied by one or more affidavits, stating the grounds on which the belief that the financial establishment has committed any default or is likely to defraud, is founded, the amount of money or value of other property believed to have been procured by means of the deposits, and the details, if any, of persons in whose names such property is believed to have been invested or purchased out of the deposits or any other property attached under Section 3."

The Government of Telangana vide Notification dated 29.10.1999 appointed District Magistrates of all Districts and Commissioner of Police Hyderabad, Visakhapatnam and Vijayawada as competent authority to discharge functions under Section 4(2) of the Act No.17 of 1999. The State Government in exercise of powers conferred under Section 18 read with Rule 9 of the Rules has amended Rule 5 of the Rules, 1999 vide G.O.Ms.No.99, dated 05.09.2018 issued by the State Government and the said G.O., is reproduced as under:-

"GOVERNMENT OF TELANGANA

ABSTRACT

Rules - Amendment to Telangana State Protection of Depositors of Financial Establishments Rules, 1999 - Notification - Orders - Issued.

HOME (PASSPORTS) DEPARTMENT

G.O.Ms.No.99

Dated: 05.09.2018

Read the following:-

1. G.O.Ms.No.347, Home (General.B) Dept, dated 29.10.1999.

2. G.O.Ms.No.44, Home (Passports) Dept, dated 24.03.2017.

3. From the Director General of Police, T.S., Hyderabad, Lr.Rc.No.779/R6/2016, dated 20.11.2017 and further letter even No. dated 11.05.2018.

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ORDER:

In the G.O. 1st read above, the Andhra Pradesh Protection of Depositors of Financial Establishment Rules, 1999 have been issued.

2. The Director General of Police, Telangana State, Hyderabad in the letter 3rd read above, for the reasons mentioned therein, has submitted a proposal to the

Government for making an amendment to Sub-rule (2) of Rule-5 of the Telangana Protection of Depositors of Financial Establishment Rules, 1999.

3. Government after careful examination of the matter, have decided to further amend and to add proviso to sub-rule 2 of Rule (5) of the Telangana State Protection of Depositors of Financial Establishment Rules, 1999, in continuation to the orders issued in the G.O. 2nd read above so as to safeguard the interests of the Depositors and Victims, in the interest of public.

4. Accordingly, the following notification will be published in the Extra-Ordinary issue of Telangana Gazette, dated 06.09.2018;

NOTIFICATION

In exercise of the powers conferred by sub-section (1) of Section 18 of the Telangana Protection of Depositors of financial Establishments Act, 1999 (Act No.17 of 1999), the Government of Telangana hereby makes the following amendment to sub-rule (2) of Rule-5 of the "Telangana State Protection of Depositors of Financial Establishment Rules, 1999" as follows:-

AMENDMENT

In the said rules, in rule 5, after sub-rule (2) the following provisos shall be added, namely:

"Provided that no prosecution can be launched under the Telangana Protection of Depositors of Financial Establishment Act, 1999 in cases which have been registered earlier than the date of commencement of this Act.

Provided further that, all the prosecutions launched under this Act, shall be deemed to be launched by the Competent Authority or any Police Officer not below the rank of Inspector of Police".

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

RAJIV TRIVEDI

PRINCIPAL SECRETARY TO GOVERNMENT"

Rule 9 of the Rules, 1999 empowers the State Government to remove difficulty if arisen and Section 18 of the Act No.17 of 1999 empowers the State Government to make Rules and to amend the Rules. The amendment makes it very clear that all prosecutions launched under the Act shall be deemed to be launched by the competent authority or any police officer not below the rank of Inspector. The aforesaid amendment does not make any penal statute applicable with retrospective effect. It only makes procedural law applicable to the cases with retrospective effect. This Court really fails to understand the prejudice caused in the matter and misdeeds of the financial establishments have been thoroughly investigated and prosecution of persons like the petitioners is going on before Special Courts. Whether the person is guilty or not has to be proved during the trial based upon the evidence adduced by the prosecution and merely because the matter has been launched by the competent authority or any police officer not below the rank of Inspector of Police, it does not mean that the principles of natural justice and fair play have been violated.

Hon'ble Justice G.P.Singh in 'Principles of Statutory Interpretation', 15th Edition, (page No.405) under Chapter 6 'Operation of Statutes' has dealt with retrospective operation of statutes. Difference has been carved out in respect of 'Statutes dealing with Substantive Rights' and 'Statutes dealing with Procedure'.

Paragraph 6.2.1.2 deals with 'Statutes dealing with Substantive Rights' and the same is reproduced as under:-

"It is a cardinal principle of construction that every statute is prima facie prospective unless it is expressly or by necessary implication made to have retrospective operation [Keshvan v. State of Bombay, AIR 1951 SC 128, p 130 : (1951) SCR 228; Janardan Reddy v State, AIR 1951 SC 124, p 127 : (1950) SCR 940; Mahadeolal Kanodia v Administrator General of West Bengal, AIR 1960 SC 936, p 939 : (1960) 3 SCR 578; State of Bombay v Vishnu Ramchandra, AIR 1961 SC 307, p 309 : (1961) 2 SCR 924; Rafiquennessa (Mst) v Lal Bahadur Chetri, AIR 1964 SC 1511, p 1514 : (1964) 6 SCR 876; Arjan Singh v State of Punjab, AIR 1970 SC 703, p 705 : (1969) 2 SCR 347; KC Arora v State of Haryana, AIR 1984 SC 1 : (1984) 3 SCC 281, pp 288, 289; Mithilesh Kumari v Prem Bahadur Khare, AIR 1989 SC 1247, pp 1253, 1254 : (1989) 2 SCC 95; State of Madhya Pradesh v Rameshwar Rathod, AIR 1990 SC 1849 : (1990) 4 SCC 21; Shyam Sunder v Ram Kumar, AIR 2001 SC 2472, pp 2481, 2482 : (2001) 8 SCC 24; Zile Singh v State of Haryana, AIR 2004 SC 5100, p 5103 : (2004) 8 SCC 1, p 8 (9th Edn, p 438 of this book is referred); Gem Granites v CIT, (2005) 1 SCC 229, p 296; C Gupta v Glaxo-Smithkline Pharmaceuticals Ltd, (2007) 7 SCC 171 (Broadening of the definition of "Workman" by amendment in the Industrial Disputes Act, 1947 is not retrospective to affect the dismissal of an employee who was not a workman on the date of his dismissal). JS Yadav v State of Uttar Pradesh, (2011) 6 SCC 570 (para 24), Working Friends Co-op House Building Society Ltd v State of Punjab, (2016) 15 SCC 464 : (2016) SCC OnLine SC 937 : (2016) 1 SCC (Cr) 193 [Rajiv Choudhrie HUF v UoI, AIR 2015 SC 614 : (2015) 3 SCC 541 : 2014 (13) Scale 710, followed]]. There is a presumption of prospectivity articulated in the legal maxis "nova constitutio futuris formam imponere debet non praeteritis", i.e. "a new law ought to regulate what is to follow, not the past", and this presumption operates unless shown to the contrary by express provision in the statute or is otherwise discernible by necessary implication [Monnet Ispat & Energy Ltd v UoI, (2012) 11 SCC 1, p 90. Applying the presumption of prospectivity, the Supreme Court held that as there is no indication in section 17-A of the Mines and Minerals (Development and Regulation) Act, 1957, or in the Amending Act of 1987, which inserted section 17-A, that Parliament intended to undo the state of affairs prior to 1987 by virtue of the same. Therefore, the provision was effective from 1987 and had no retrospective operation.]. But the rule in general is applicable where the object of the statute is to affect vested rights or to impose new burdens or to impair existing obligations. Unless there are words in the statute sufficient to show the intention of the Legislature to affect existing rights, it is "deemed to be prospective only - "nova constitutio futuris formam imponere debet non praeteritis" [Osborn, "A new law ought to regulate what is to follow, not the past", Concise Law Dictionary, p 224.]. [2 c. Int. 392]". [Doolubdass Pettamberdass v. Ramloll Thackoorseydass, (1850) 5 MIA 109, pp 126, 127 (Baron Parke Mr); KC Arora v State of Haryana, supra; Zile Singh v State of Haryana, supra. See further KS Paripoornan v State of Kerala, AIR 1995 SC 1012, p 1034 : (1994) 5 SCC 593 : JT 1994 (6) SC 182, pp 213, 214; Shakti Tubes Ltd v State of Bihar, (2009) 7 SCC 673, para 24: (2009) 9 JT 386.] In the words of Lord Blanesburg, "provisions which touch a right in existence at the passing of the statute are not to be applied retrospectively in the absence of express enactment or necessary intendment" [Delhi Cloth Mills & General Co Ltd v CIT, Delhi, AIR 1927 PC 242, p 244; citing Colonial Sugar Refining Co v Irving, (1905) AC 369 (PC); Jose De Costa v Bascora Sadasiva Sinai Narcornim, AIR 1975 SC 1843, p 1849 : (1976) 2 SCC 917; KC Arora v State of Haryana, supra.]. "Every statute, it has been said", observed Lopes LJ, "which takes away or impairs vested rights acquired under existing laws, or creates a new obligation or imposes a new duty, or attaches a new disability in respect of transactions already past, must be presumed to be intended not to have a retrospective effect" [Re, Pulborough Parish School Board Election, Bourke v Nutt, (1894) 1 QB 725, p 737. See further Amireddi Raja Gopala Rao v Amireddi Sitharamamma, AIR 1965 SC 1970, p 1973 : (1965) 3 SCC 122. (A construction that affects vested rights "should never be adopted if the words are open to another construction".) Shri Vijayalakshmi Rice Mills v State of Andhra Pradesh, AIR 1976 SC 1471, p 1473 : (1976) 3 SCC 37; K Kapen Chaco v Provident Investment Co (Pvt) Ltd, AIR 1976 SC 2610, p 2617 : (1977) 1 SCC 593; Govinddas v Income-tax Officer, AIR 1977 SC 552, p 558 : (1976) 1 SCC 906; Punjab Tin Supply Co v Central Government, AIR 1984 SC 87 : (1984) 1 SCC 206, p 219; Mithilesh Kumari v Prem Bahadur Khare, AIR 1989 SC 1247, pp 1253, 1254 : (1989) 2 SCC 95; Pearce v Secretary of State for Defence, (1988) 2 All ER 348, p 372 (HL); Yew Bon Tew v Kenderancen Bas Mara, (1982) 3 All ER 833, p 836 : 1983 AC 553 : (1982) 2 WLR 1026 (PC); Plewa v Chief Adjudication Officer, (1994) 3 All ER 323, p 328 (HL); R Rajgopal Reddy v Padminichandra, 1995 AIR SCW 1422 : (1955) 2 SCC 630 : 1995 (1) Scale 692, pp 702, 703; K Gopinathan Nair v State of Kerala, AIR 1997 SC 1925, p 1939 : 1997 (4) JT 369.].

If rights created in favour of any person, whether they are property rights or rights arising from a transaction in the nature of a contract or rights protected under a statute, are to be taken away by any legislation, then that legislation will have to say so specifically by giving its provisions a retrospective effect. This principle was applied by the Supreme Court to protect a "deemed tenant" under Section 15A of the Bombay Rent Act, 1947, from eviction as an "unauthorised occupant" under the Public Premises (Eviction of Unauthorised Occupants) Act,

1971. The Supreme Court held that a "deemed tenant" under the 1947 Act continued to be protected under its succeeding Act, being the Maharashtra Rent Control Act, 1999, in view of the definition of "tenant" under section 7(15)(a)(ii) thereof, and he therefore cannot be said to be in "unauthorised occupation" of the premises. His right as a "deemed tenant" cannot be destroyed by giving retrospective effect to the provisions of the Public Premises Act since there is neither such express provision therein, nor is it warranted by any implication. [Suhas H Pophale v Orinetal Insurance Co Ltd, (2014) 4 SCC 657, pp 681 to 685.]

As a logical corollary of the general rule, that retrospective operation is not taken to be intended unless that intention is manifested by express words or necessary implication, there is a subordinate rule to the effect that a statute or a section in it is not to be construed so as to have larger retrospective operation than its language renders necessary [Reid v Reid, (1886) 31 Ch D 402, p 408; Lauri v Renad, (1892) 3 Ch 402, p 421; Gardener & Co v Cone, (1928) All ER Rep 458, p 459; United Provinces v Atiqa Begum (Mt), AIR 1941 FC 16, p 47 ; SS Gadgil v Lal & Co, AIR 1965 SC 171, p 177 : (1964) 8 SCR 72; Mohd Idris v Sat Narain, AIR 1966 SC 1499, p 1501 : (1966) 3 SCR 15; Arjan Singh v State of Punjab, AIR 1970 SC 703, p 706 : (1969) 2 SCR 347; Ahmedabad Manufacturing & Calico Printing Co Ltd v SG Mehta, AIR 1963 SC 1436, p 1446 : 1963 Supp (2) SCR 92; Sales Tax Officer, Ward II, Moradabad v Oriental Coal Corp Moradabad, AIR 1988 SC 648, p 653 : 1988 Supp SCC 308; Bhagat Ram Sharma v UoI, AIR 1988 SC 740, p 746 : 1988 Supp SCC 30; UoI v Raghubir Singh, AIR 1989 SC 1933, p 1948; KS Paripoornan v State of Kerala, AIR 1992 SC 1488, p 1494 : (1992) 1 SCC 684 Affirmed by Constitution Bench, AIR 1995 SC 1012, p 1038 : JT 1994 (6) SC 182, p 219; R Rajgopal Reddy v Padminichandra, supra; Deputy Collector v S Venkata Ramanaiah, AIR 1996 SC 224, p 232 : 1995 (5) Scale 521, 531, 532; Shyam Sunder v Ram Kumar, AIR 2001 SC 2472, pp 2481, 2482 : (2001) 8 SCC 24; Co-op Co Ltd v Commissioner of Trade Tax, Uttar Pradesh, (2007) 4 SCC 480 (para 29) : (2007) 6 JT 49 : (2007) 5 SLT 400.]. In other words close attention must be paid to the language of the statutory provision for determining the scope of the retrospectivity intended by Parliament. [UoI v Raghubir Singh, AIR 1989 SC 1933, p 1948 : (1989) 2 SCC 754; KS Paripoornan v State of Kerala, supra. Principles relating to retrospectivity stated above were reiterated and reference was made to pages 474 and 475 of 10th Edn of this book in SL Srinivas Jute Twine Mills (Pvt) Ltd v UoI, (2006) 2 SCC 740 (para 18) : (2006) 2 JT 397 : (2006) 2 LLJ 225; MRF Ltd v Assistant Commissioner (Assessment) Sales Tax, (2006) 8 SCC 702 (para 28) : (2006) 12 JT 244 and Sangam Spinners v Regional Provident Commissioner, AIR 2008 SC 739 : (2008) 1 SCC 391 (para 18); UoI v Glaxo India Ltd (2011) 6 SCC 668 (para 40).] But if the literal reading of the provision giving retrospectivity produces absurdities and anomalies, a case not prima facie within the words may be taken to be covered, if the purpose of the provision indicates that the intention was to cover it. [UoI v Filip Tiago De Gama of v edem Vasco De Gama, AIR 1990 SC 981, p 985 : (1990) 1 SCC 277] The inhibition against retrospective construction is not a rigid rule and must vary secundum materium. [Barber v Pigden, (1937) 1 All ER 126 : (1973) 1 KB 664 (CA) Scott LJ); Carson v Carson, (1964) 1 All ER 681, p 687.] It has been said that "the basis of the rule is no more than simple fairness which ought to be the basis of every legal rule". [L'Office Cherifien des Phosphates v Yamashita-Shinnihon Steamship Co Ltd., (1994) 1 All ER 20, p 29 (J) : (1994) 1 AC 486 (HL); United States Government v Montgomery, (2001) 1 All ER 815, p 825 (d) (HL). The doctrine of fairness in the context of retrospectivity was also referred to by Sinha J in Vijay v State of Maharashtra, (2006) 6 SCC 289 : (2006) 7 JT 112. See further pp 583-586, post, for these cases.]

It is not necessary that an express provision be made to make a statute retrospective and the presumption against retrospectivity may be rebutted by necessary implication especially in a case where the new law is made to cure an acknowledged evil for the benefit of the community as a whole. [Mithilesh Kumari v Prem Bihari Khare, AIR 1989 SC 1247, p 1254 : (1989) 2 SCC 95; Zile Singh v State of Haryana, AIR 2004 SC 32 : (2004) 8 SCC 1, p 9 (9th Edn, p 440 of this book is referred). See further text and notes 40 to 54 (p 542) and 59 to 63 (p 561); Shakti Tubes Ltd v State of Bihar, (2009) 7 SCC 673 para 25 : (2009) 9 JT 386.] Instead of express words the device of legal fiction may also be used to bring about retrospective operation by implication. [Mohd Akram Ansari v Chief Election Officer, (2008) 2 SCC 95 (paras 6 and 7) : (2007) 12 SCR 901.]

The rule against retrospective construction is not applicable to a statute merely "because a part of the requisites for its action is drawn from a time antecedent to its passing". [R v St Mary White Chapels (Inhabitants), (1948) 12 QB 120, p 127; Master Ladies' Tailors' Organisation v Ministry of Labour, (1950) 2 All ER 525, p 527; Rao Shiv Bahadur Singh v State of Uttar Pradesh, AIR 1953 SC 394, p 398 : (1953) SCR 1188; UoI v Madan Gopal, AIR 1954 SC 158, p 163 : (1954) SCR 541; State of Bombay v Vishnu Ramchandra, AIR 1961 SC 307, p 310 : (1961) 2 SCR 26; Sajjan Singh v State of Punjab, AIR 1964 SC 464, p 468 : (1964) 4 SCR 630; Kapur Chand v BS Grewal, AIR 1965 SC 1491, p 1493 : (1965) 2 SCR 36; Sree Bank Ltd v Sarkar Dutt Roy & Co, AIR 1966 SC 1953, p 1957 : (1965) 3 SCR 708; TK Lakshmana v State of Madras, AIR 1968 SC 1489, p 1494 : (1968) 3 SCR 542; Customs and Excise Commissioner v Thorn Electrical Industries Ltd, (1975) 1 All ER 439, p 447 (QBD); DS Nakara v UoI, AIR 1983 SC 130, p 143 : (1983) 1 SCC 305; RL Marwaha v UoI, (1987) 4 SCC 31, pp 37, 38 : (1987) SCC (L&S) 350; Dilip v Mohd Azizul Haq, AIR 2000 SC 1976, p 1980 : (2000) 3 SCC 607.] If that were not so, every statute will be presumed to apply only to persons born and things come into existence after its operation and the rule may well result in virtual nullification of most of the statutes. An amending Act is, therefore, not retrospective merely because it applies also to those to whom pre-amended Act was applicable if the amended Act has operation from the date of its amendment and not from an anterior date. [Bishun Narain Misra v State of Uttar Pradesh, AIR 1965 SC 1567 : (1965) 1 SCR 693; Punjab University v Subash Chander, AIR 1984 SC 1415 : (1984) 3 SCC 603, pp 611, 612. See further Mohinder Kumar v State of Haryana, AIR 1986 SC 244 :

(1985) 4 SCC 221, p 231 (a validating Act); Dena Bank v Bhikhabhai Prabhudas Parekh & Co, AIR 2000 SC 3654, p 3660 : (2000) 5 SCC 694 (The passage in the text from this book is quoted from 7TH Edn., p 369).] But this does not mean that a statute which takes away or impairs any vested right acquired under existing laws or which creates a new obligation or imposes a new burden in respect of past transactions will not be treated as retrospective. [KS Paripoornan v State of Kerala, AIR 1995 SC 1012, pp 1034, 1035 : JT 1994 (6) SC 182, pp 213, 214.] Thus, to apply an amending Act, which creates a new obligation to pay additional compensation, [Ibid. See further Land Acquisition Officer-cum-DSWO AP v BV Reddy, AIR 2002 SC 1045 : (2002) 3 SCC 463 (Section 25 of the Land Acquisition Act before amendment in 1984 restricting compensation to not more than claimed was a substantive provision. Amendment removing this bar cannot be construed to be retrospective even to apply to a pending appeal).] or which reduces the rate of compensation, [Maharaja Chintamani Saran Nath Shahdeo v State of Bihar, AIR 1999 SC 3609, p 3614 : (1999) 8 SCC 16 : JT 1999 (8) SC 45, p 56.] to pending proceedings for determination of compensation for acquisitions already made, will be to construe it retrospectively which cannot be done unless such a construction follows from express words or necessary implication. Similarly, a new law enhancing compensation payable in respect of an accident arising out of use of motor vehicle will not be applicable to accidents taking place before its enforcement and pending proceedings for assessment of compensation will not be affected by such a law unless by express words or necessary implication the new law is retrospective. [Padma Srinivan v Premier Insurance Co Ltd, AIR 1982 SC 836; Maitri Koley v New India Assurance Co, (2003) 8 SCC 718 : (2003) 9 JT 159; State of Punjab v Bhajan Kaur, AIR 2008 SC 2276 para 9 : (2008) 12 SCC 112 [Amendment increasing compensation for no fault liability in Section 140 of the Motor Vehicles Act is not retrospective].] It makes no difference in application of these principles that the amendment is by substitution or otherwise. [Ibid. For effect of "substitution", see text and notes 87 to 89, pp 734-735, post.] The cases where the principle, that a statute is not retrospective simply because it takes into account past events, has been applied are discussed hereinafter under titles 2(g) and 2(h).

Another principle flowing from presumption against retrospectivity is that "one does not expect rights conferred by the statute to be destroyed by events which took place before it was passed". [Birmingham City Council v Walker, (2007) 3 All ER 445, p 449 (para 11) (HL).]

In certain cases, a distinction is drawn between an existing right and a vested right and it is said that the rule against retrospective construction is applied only to save vested rights and not existing rights. [West v Gwynne, (1911) 2 Ch 1, p 11, 12; Trimbak Damodhar Raipurkar v Assaram Hiraman Patil, AIR 1966 SC 1758, p 1761. See also Shri Bakul Oil Industries v State of Gujarat, AIR 1987 SC 122 : (1987) 1 SCC 31, p 37 : (1987) 165 ITR 6.] This distinction, however, has not been maintained in other cases. [Duke of Devonshire v Barrow Haematite Steel Co Ltd, (1877) 2 QBD 286, p 289; Dr Indramani v WR Natu, AIR 1963 SC

274, p 286 : (1963) 1 SCR 173; Govinddas v Income-tax Officer, AIR 1977 SC 552, p 558 : (1976) 1 SCC 906; Mohd Rashid Ahmad v State of Uttar Pradesh, AIR 1979 SC 592, p 598 : (1979) 1 SCC 596.] The word "retrospective" has thus been used in different senses causing a certain amount of confusion. [Gardner & Co v Cone, (1928) All ER Rep 458, p 461.]. The real issue in each case is as to the scope of particular enactment having regard to its language and the object discernible from the statute read as a whole.

6.2.1.3 Statutes Dealing with Procedure

In contrast to statutes dealing with substantive rights, statutes dealing with merely matters of procedure are presumed to be retrospective unless such a construction is textually inadmissible. [Gardner v Lucas, (1878) 3 AC 582, p 603 (HL); Delhi Cloth & General Mills Co Ltd v CIT, Delhi, AIR 1927 PC 242, p 244; Jose De Costa v Bascora Sadashiva Sinai Narcornim, AIR 1975 SC 1843, p 1849 : (1976) 2 SCC 917; Gurbachan Singh v Satpal Singh, AIR 1990 SC 209, p 219 : (1990) 1 SCC 445; Hitendra Vishnu Thakur v State of Maharashtra, AIR 1994 SC 2623, p 2641 (para 25(i)) : (1994) 4 SCC 602.] As stated by Lord Denning:

The rule that an Act of Parliament is not to be given retrospective effect applies only to statutes which affect vested rights. It does not apply to statutes which only alter the form of procedure or the admissibility of evidence, or the effect which the courts give to evidence. [Blyth v Blyth, (1966) 1 All ER 524, p 535 : 1966 AC 643 (HL)]

If the new Act affects matters of procedure only, then, prima facie, "it applies to all actions pending as well as future". [AG vv ernazza, (1960) 3 All ER 97, p 100 : 1960 AC 965 : (1960) 3 WLR 466 (HL); K Eapin Chaco v Provident Fund Investment Co, (Pvt) Ltd, AIR 1976 SC 2610, p 2617 : (1977) 1 SCC 583] In stating the principle that "a change in the law of procedure operates retrospectively and unlike the law relating to vested right is not only prospective", [Anant Gopal Sheorey v State of Bombay, AIR 1955 SC 915, p 917 : (1959) SCR 919. See further UoI v Sukumar Pyne, AIR 1966 SC 1206 : (1966) 2 SCR 34; Tikaram and Sons v Commissioner of Sales Tax, Uttar Pradesh, AIR 1968 SC 1286, p 1292 : (1968) 3 SCR 512; State of Madras v Lateef Hamid and Co, AIR 1972 SC 1781, p 1784 : (1971) 3 SCC 560; Balumal Jamnadas Batra v State of Maharashtra, AIR 1975 SC 2083 : (1975) 4 SCC 645. (An enactment relating to burden of proof like Section 123, Customs Act, 1962 would be a matter of procedure); Roy Bahadur Seth Sriram Durgaprasad v Director of Enforcement, AIR 1987 SC 1364 : (1987) 3 SCC 27, pp 33, 34. (Section 113A, Evidence Act, 1872, inserted in the Act by Act 46 of 1983 providing for presumption as to abetment of suicide by a married woman is a procedural provision and applies to trial of offences committed earlier to the insertion of the Section); Gurbachan Singh v Satpal Singh, AIR 1990 SC 209, p 219 : (1990) 1 SCC 445.] the Supreme Court has quoted with approval the reason of the rule as expressed in Maxwell: [Maxwell, Interpretation of Statutes, 11th Edn, p 216.]

No person has a vested right in any course of procedure. He has only the right of prosecution or defence in the manner prescribed for the time being by or for the court in which the case is pending, and if, by an Act of Parliament the mode of procedure is altered, he has no other right than to proceed according to the altered mode. [See cases in footnote 31, supra]

Relying upon this principle it has been held that "if a Court has jurisdiction to try the suit, when it comes for disposal, it cannot refuse to assume jurisdiction by reason of the fact that it had no jurisdiction to entertain it at the time when it was instituted". [Sudhir G Angur v M Sajeev, AIR 2006 SC 351 : (2006) 1 SCC 141 (para 1)] It has been said that law relating to forum and limitation is procedural in nature, whereas law relating to right of action and right of appeal even though remedial is substantive in nature; that a procedural statute should not generally speaking be applied retrospectively where the result would be to create new disabilities or obligations or to impose new duties in respect of transactions already accomplished; that a statute which not only changes the procedure but also creates new rights and obligations shall be construed to be prospective, unless otherwise provided either expressly or by necessary implication. [Hitendra Vishnu Thakur v State of Maharashtra, AIR 1994 SC 2623, p 2641 (para 25) : (1994) 4 SCC 602; Maharaja Chintamani Saran Nath Shahdeo v State of Bihar, AIR 1999 SC 3609, p 3614 : (1998) 8 SCC 16 : JT 1999 (8) SC 45, p 56; Shyam Sundar v Ram Kumar, AIR 2001 SC 2472, p 2482 : (2001) 8 SCC 24. For forum see text and notes 36-37; for limitation, see title 2(d); for appeal, see titles 2(j) and 2(k

A change of forum except in pending proceedings [See text and notes 38 and 39, pp 630-631.] in a matter of procedure and, therefore, if a new Act requires certain types of original proceedings to be instituted before a special tribunal constituted under the Act to the exclusion of civil courts, all proceedings of that type whether based on old or new causes of action will have to be instituted before the tribunal. [New India Insurance Co Ltd v Shanti Misra (Smt), AIR 1976 SC 237 : (1975) 2 SCC 840.] The non-executability of a decree passed by an Indian court against a foreigner at a place in foreign country is also a matter of procedure and the decree becomes executable if the place where it is being executed ceases to be a foreign country and becomes part of India and the Indian Code of Civil Procedure, 1908 (CPC, 1908) is extended to that place. [B Narhari Shivram Shet Narvekar v Pannalal Umediram, AIR 1977 SC 164 : (1976) 3 SCC 203.] On the same principle it was held that an arbitration award made in a foreign state is enforceable in the United Kingdom as a convention award under Section 3 of the Arbitration Act, 1975 if the foreign State is a party to the New York Convention when proceedings for enforcing the award are taken although it was not such a party at the time of making of the award. [Kuwait Minister of Public v Sir Frederick Snow and Partners, (1984) 1 All ER 733, p 737 (HL).] It was pointed out that in so construing the section it was not given a retrospective operation as it merely affected the form of procedure of enforcement in that an award, which at the time it was made, was enforceable by action at common law became enforceable under the Act on the foreign State becoming a party to the convention subsequent to the date of the award. [Ibid] Section 45B the Employees' State Insurance Act, 1948, which enables the Employees' State Insurance Corporation to recover arrears of contribution from the employers as arrears of land revenue, has been held to be procedural and applicable to arrears falling due before coming into force of the section on 28 January 1968. [Employees' State Insurance Corp v Dwarka Nath Bhargawa, AIR 1997 SC 3518, p 3519 : (1997) 7 SCC 131.] The reason is that statutes providing for new remedies for enforcement of an existing right are treated as procedural and apply to future as well past causes of action. [Dilip v Mohd Azizul Haq, AIR 2000 SC 1976, pp 1979, 1980 : (2000) 3 SCC 607]"

Keeping in view the aforesaid, it can be safely gathered that the fundamental rule of law is that no statute shall be construed to have a retrospective operation unless such a construction appears from clearly in the terms of the Act/Rules or arises by necessary and distinct implication.

In the present case, this Court is dealing with the amendment in the statute and the statute deals with the procedure in the matter of investigation.

It is well settled proposition of law that a litigant has no vested right in the matter of procedural laws or alternation in procedural laws, which generally are held to be retrospective in the sense that they apply to future as well as to pending actions. In the present case, only the procedural law has been amended. The petitioners with open eyes participated in the investigation and whether they are guilty or not has to be proved only after holding a proper trial. This Court fails to understand the prejudice caused to the petitioners on account of amendment, and therefore, as it is an amendment in procedural law, this Court does not find any reason to declare it as ultra vires as prayed for.

The intention of the legislature by amending Rules with retrospective effect no way intends to regularise any flaw in respect of the trial. The Special Courts keeping in view the statutory provisions under the Act No.17 of 1999 and the Rules framed thereunder are proceeding ahead with the trial on the basis of the material brought before the Special Courts by the competent authority or by any police officer and merely because investigation has been carried by any police officer not below the rank of Inspector of Police prior to 05.09.2018, it does not mean that all the misdeeds of the petitioners can be wiped out as prayed by the petitioners. The petitioners' contention is that the amendment and the Rules has been done only with a view to object to nullify the Judgment delivered by this Court in Criminal Appeal No.1576 of 2005 and batch decided on 01.04.2015. In the considered opinion of this Court, the plea canvassed by the petitioners is ill-founded. It does not nullify any Judgment. The act of the petitioners was certainly an offence earlier also and it is an offence under the amendment also and it is nobody's case that the act committed by the petitioners has been made an offence by amending the Act retrospectively.

In the considered opinion of this Court, the amendment does not violate the rights guaranteed to the petitioners under the Constitution of India either under Article 20(1) or under Article 21 of the Constitution of India. The petitioners are the persons who have allegedly fraudulently siphoned public money who have allegedly cheated the depositors and are trying to find out technical flaws that too in respect of pre-trial stage to ensure that the trial does not proceed. The amendment made under the Rules is in consonance with the Act No.17 of 1999 and the petitioners have not been able to establish violation of any statutory provision of law by the State Government in amending the Rules nor have been able to establish violation of any constitutional provisions. The amendment is neither arbitrary nor discriminatory and it is an amendment in the procedural law and therefore, this Court does not find any reason to interfere with the amendment and the question of declaring it as ultra vires does not arise.

In the light of the aforesaid, the writ petitions are dismissed. Miscellaneous petitions, if any pending, shall stand dismissed. There shall be no order as to costs.