

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: **Socio-economic Offences**
Semester- X (Batch: 2018-23)

End Semester Examination: May 2023

Date: 05th May, 2023

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Cite suitable case laws in each answer, even where ever not asked. Quote correct name of the statute while mentioning any or all sections in the answers. Do not use highlighter or shorthand words. PMLA is to be read as Prevention of Money laundering Act 2002, IPC is to be read as Indian Penal Code, 1860. PCA is to be read as Prevention of Corruption Act 1988.

<p>Q.1 The facts mentioned below are from a writ application pending before the Supreme Court of India. Read the facts carefully and answer the questions given in the end:</p>	<p>Marks (8)</p>
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The Great Task Bank (hereinafter referred as “GTB”) was incorporated on 29.10.1993 as a banking company under Companies Act, 1956. Said Bank was issued licence dated 06.09.1994 under Banking Regulation Act, 1949 by Reserve Bank of India (for short “RBI”). Rangaswami (writ petitioner before the Court) was Chairman and Managing Director, and Shekhar (writ petitioner before the High Court) was Executive Director of the Bank. Both were also promoters of GTB. For raising their contribution to the capital, the accused (Rangaswami and Shekhar) obtained loans from various individuals and companies, including M/s. Beautiful Group of Companies of accused Rajesh Mehta and Vijay Mehta, and M/s. Trinity Technomics Services Pvt. Ltd., of which accused Vijay Mehta was the director. M/s. Beautiful Group of Companies opened their first account in the name of Beautiful Diamonds Ltd. with G.T.B. in the year 1994-95. Investigation revealed that various credit facilities were allowed to the said company (by Rangaswami and Shekhar), and they fraudulently instructed the branch heads, without following norms for sanctioning the credit facilities. The duo (Rangaswami and Shekhar), abusing their official positions, sanctioned higher credit limits to M/s. Beautiful Diamonds Ltd. against bank regulations. According to the CBI, the investigation further revealed that in pursuance to the alleged conspiracy of the accused the funds of GTB were diverted, and release of Rs.5.00 crores was made in the name of M/s. Beautiful Realtors Ltd. on the request of Directors of M/s. Beautiful Diamonds Ltd. Said amount was further transferred to the already overdrawn account of M/s. Beautiful Diamonds Ltd. In April, 2001, Directors of Beautiful Group of Companies in pursuance of conspiracy with other accused submitted another application for sanction of Rs.3.00 crores as diamond loan in the name of M/s. Crystal Gems.

These transactions have caused a total wrongful loss of about Rs.41.00 crores to GTB. The accounts of Beautiful Diamonds Ltd. and other companies, which availed funds from GTB, should have been declared Non Performing Assets (NPA), but accused Rangaswami and Shekhar allegedly manipulated and showed the accounts of Beautiful

Realtors Ltd. and Crystal Gems as higher profit yielding accounts. The scam did not come to light till 2005.

On 14.08.2004 GTB merged/amalgamated with Oriental Bank of Commerce (hereinafter referred as "OBC"). An FIR dated 31.03.2005 in respect of offences punishable under Sections 420, 467, 468, 471 IPC and under Section 13(2) read with Section 13(1)(d) of the P.C. Act of 1988 was registered by CBI on the complaint made by the Chief Vigilance Officer, OBC, wherein the allegations were made that Rangaswami and others, including Directors of M/s. World Tex Limited entered into a criminal conspiracy to cheat the GTB causing wrongful loss to the tune of Rs.17.46 crores, and thereby earned corresponding wrongful gain. After investigation, charge sheet was filed in the said matter before the Special Judge, CBI, Patiala House Courts, New Delhi.

Another First Information Report was registered by C.B.I. on 09.08.2005 for offences punishable under Section 120B read with Sections 409 and 420 IPC, initially against two employees of the GTB and two private persons Rajesh Mehta and Prashant Mehta on the complaint dated 26.07.2005 lodged by the Chief Vigilance Officer, OBC.

It is relevant to mention here that the GTB was a private sector bank, before its amalgamation in August 2004 with OBC, a public sector bank. In the second FIR it was alleged that the GTB sanctioned and disbursed loans by throwing all prudent banking norms to winds and thus created a large quantum of Non-Performing Assets (NPA) jeopardizing the interests of thousands of depositors, but painted a rosy financial picture. These loan transactions came to the light during audit after amalgamation of GTB with OBC, and it was noted that two accounts, namely that of M/s. Beautiful Diamonds Ltd. and M/s. Crystal Gems were used to siphon out funds of the Bank.

After investigation, charge sheets were filed in this matter before the Special Court, Mumbai in respect of offences punishable under Section 120B read with Sections 409 and 420 IPC and under Section 13(2) read with Section 13(1) (d) of the P.C. Act, 1988. However, on 05.02.2007 the Special Court, Mumbai declined to take cognizance of offence punishable under Section 13(2) read with S.3(1) P.C Act, 1988 and the Special Court directed that the charge sheet may be returned for being submitted to appropriate Metropolitan Magistrate for taking cognizance in respect of offences punishable under the IPC, only.

The High Court of Judicature at Bombay has upheld the order dated 05.02.2007 by the impugned order, the CBI has approached this Court through Special Leave.

Based on the facts above, discuss and advise the Apex Court:

- a) What are the legal issues involved in the case?
- b) What is an amicable solution to the problem?

Q.2 Consider the following facts of the cases filled in PMLA, 2002, through a writ petition before the Apex court: (8)

- a) It is the case of the petitioner that during the pandemic, she initiated crowdfunding campaign through an online crowdfunding platform named "Oglloo" and ran three campaigns from April 2020 to September 2021. The bank account of the petitioner was operated by HDFC Bank, Koperkhairane Branch, Navi Mumbai, Maharashtra. It is the ultimate destination, to which all funds reached.

A complaint was lodged on 7.9.2021 by one V S, claiming to be the founder of Jagran IT Cell, with Indirapuram Police Station, Ghaziabad for alleged offences under Sections 403, 406, 418 and 420 IPC read with Section 66D of the

Information Technology (Amendment) Act, 2008 and Section 4 of PMLA. After the registration of the aforesaid complaint by the Enforcement Directorate, the petitioner was summoned to the Delhi Zone-II Office and her statement under Section 50 of the PMLA was recorded on 15.12.2021. Thereafter, a provisional order of attachment of the bank account of the petitioner in HDFC Bank, Koperkhairane Branch, Navi Mumbai, Maharashtra, was passed by the Directorate of Enforcement on 4.2.2022.

The Special Court, Anti-Corruption, CBI, Ghaziabad, passed an order on 29.11.2022 taking cognizance of the complaint lodged by the respondent and summoning the petitioner for appearance on 13.12.2022. Upon coming to know of the said Summoning Order, the petitioner has filed the above writ petition.

The petitioner wants to challenge the impugned order of the Special Court, Anti-Corruption, CBI, Ghaziabad, under the relevant provision of the PMLA. Advise the petitioner, whether this case is maintainable. Also advise an appropriate remedy. Cite appropriate provisions of the PMLA.

- b) Explain citing suitable authority to the procedure of 'search', 'seizure' & 'arrest' in the PMLA.
- Q.3 Explain by citing important case laws decided by the Supreme Court of India the concept of tax evasion & tax avoidance in Indian legal regime. (4)
- Q.4 Discuss the difference of the following: (5)
- White collar crime & Socio-Economic crime
 - Crime committed by the religious leaders in India.
- Q.5 In a case, in which A & B have charged with the commission of offences under sections 21, 23 and 29 of the NDPS Act. C was convicted under section 27 for consuming a small quantity of prohibited substances. At the time of investigation, B agreed to become approver and promised to give evidence against A. Based on this commitment, NCB approached the court to grant an immunity to B but the Court refused to give such immunity to B. Accused C has asked for probationary consideration from the Court but the Court has refused the same. (10)
- Can NCB grant an immunity to B irrespective of the Court's decision?
- Can C get the probationary benefit and get immunity from punishment? (word limit: 600-700 words)
- Q.6 Mr. X has been charged with the commission of dumped excreta in the residence of a member of a Scheduled Caste and the Court has found him guilty for the set offence. At the time of the sentencing hearing, Mr. X has asked to give Probation of Offender Act benefits to him. (10)
- Can Mr. X be given probationary benefits by the court? (word limit: 600-700 words)
- Q.7 Write Short notes on **any one** of the following (word limit: 250-300 words) (5)
- Food recall
 - Offences committed by the child under POCSO Act
