

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION STAMP NO.17301 OF 2021

Directorate of Enforcement ... Applicant.

V/s.

The State of Maharashtra & Anr. ... Respondent

Mr.Anil C. Singh ASG with Mr.Shreeram Shirsat and Mr.D.P.Singh for the Applicant.

Mr.Vikram Chaudhari, Senior Advocate with Mr.Aniket Nikam and Mr.Harpreet Singh Purewal i/b Inderpal B.Singh & Co. for Respondent No.2.

**CORAM : MADHAV J. JAMDAR, J.
(VACATION COURT)**

DATE : 7TH NOVEMBER, 2021

P.C:-

1. Heard Mr.Anil Singh, learned Additional Solicitor General for the Applicant and Mr.Vikram Chaudhari, Senior Advocate for Respondent No.2.
2. The Applicant – Directorate of Enforcement by present Criminal Revision Application has challenged the order dated 6th November, 2021 passed by the Learned Special Judge (Diwali Holiday Court) in remand application bearing RA (ED)../2021 in ECIR/MBZO-I/66/2021 (Exhibit-7).

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By said remand application filed under section 65 of PMLA, 2002 read with 167(2) of Cr.P.C., the Applicant sought custody of Respondent No.2 – Accused for a period of 9 days. By the impugned order Respondent No.2 was remanded to judicial custody.

3. Mr. Anil Singh, learned ASG submitted that the Directorate of Enforcement have to urgently move the matter by challenging the impugned order dated 6th November, 2021 as by the said impugned order Respondent No.2 is remanded to judicial custody. He submitted that this has been done in the midst of custodial investigation and as Respondent No.2 is giving evasive replies, further custodial investigation is absolutely essential. The Applicant has raised several contentions in Criminal Revision Application.

4. Before considering the merits of the impugned order, I must record fair stand taken by Mr. Vikram Chaudhari, learned Senior Counsel appearing for Respondent No.2. At the outset he submitted that Respondent No.2 is willing to face custodial investigation for about four days. He submitted that although he can raise contentions regarding maintainability of Criminal Revision Application as well as on merits of the case but on instructions, he is making aforesaid statement. He submitted that the impugned order passed below Exhibit-7 can be quashed and set aside by consent and therefore no detailed reasons be assigned.

5. In view of the aforesaid stand taken by learned Senior Counsel appearing for Respondent No.2, Mr. Anil Singh, learned ASG took instructions and submitted that custody by the Directorate of Enforcement is required from 7th November, 2021 to 12th November, 2021.



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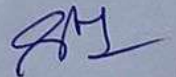
6. I have gone through the impugned order and also relevant investigation papers. Prima facie there is substance in the contentions raised by Mr. Anil Singh and also contentions raised in Criminal Revision Application about the legality of the impugned order. However, as Mr. Vikram Chaudhari, learned Senior Counsel appearing for Respondent No.2 has made voluntary statement on behalf of Respondent No.2 as recorded hereinabove, I am not going in detail in the said aspects.

7. As far as the issue of maintainability raised by learned Senior Counsel appearing for the Respondent No.2, although he has not argued the same in view of the statement made on behalf of Respondent No.2, a reference will have to be made to the judgment dated 4/05/2012 of Hon'ble Gujrat High Court, passed in Criminal Reference No.3 of 2009. The questions referred to the Division Bench – Larger Bench in said reference were answered in following manner :-

“17. In light of the aforesaid discussion, our final conclusion may be summarized thus:

(I) An order refusing to grant remand has direct bearing on the proceedings of the trial itself and in a given case will definitely have effect on the ultimate decision of the case.

(II) An order refusing to grant remand may affect the progress of the trial or its decision in any manner if Investigating Agency is deprived of having custodial interrogation of the accused so as to effectively investigate the offence and gather necessary evidence and material to put the accused to trial.



(III) An order refusing to grant police remand would be a final order and a revision under Section 397 read with Section 401 of the Code would be maintainable.

Reference is accordingly answered. Registry shall place the matter once again before the Hon'ble Chief Justice for appropriate orders so that the main matter can be placed before the appropriate Court taking up such matter."

8. In view of statement made by Mr. Vikram Chaudhari, learned Senior Counsel for Respondent No.2 and in view of above, the impugned order dated 6th November, 2021 passed in RA (ED)...../2021 in ECIR/MBZO-I /66/2021 (Exhibit-7) is quashed and set aside. Respondent No.2 is remanded in the custody of the Directorate of Enforcement from 7th November, 2021 to 12th November, 2021.
9. Criminal Revision Application is disposed of in above terms.
10. All concerned to act on authenticated copy of this order duly authenticated by Private Secretary/Registry of this Court.

sd/r

[MADHAV J. JAMDAR, J.]

True Copy
SM
(P.S to Jamdhar J.)
Private Secretary
to the Hon'ble Judge
High Court, Bombay