

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1764 OF 2014

Ratnakala Ashok Katkam	...	Petitioner
vs.		
The State of Maharashtra & Or.	...	Respondents

Mr. Balkrishna Joshi, Advocate, for the petitioner
Mr. Arfan Sait, APP, for the State.
Mr. Bhaskar M. Jadhav, P.I. Anti Corruption Bureau, Solapur.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 14th September, 2015.

P.C.

Rule. Rule made returnable forthwith with consent of the parties.

2. The petitioner herein is challenging the order of the Special Court (MPID) attaching the property of the petitioner pursuant to the proclamation issued against accused No.3 for Crime No.285 of 2012 registered at Vijapur Naka Police Station, Solapur.

3. It is the case of the prosecution that the petitioner had purchased the property situated at C-41 and C-42 from the original accused

No.3 in Crime No.285 of 2012 by a registered sale deed dated 2.9.2011. The petitioner by virtue of the registered sale deed had become absolute owner of the said property.

4. On 13.10.2012, Crime No.285 of 2012 was registered against Anand Takale for the offences punishable under Sections 420, 406, 504, 506 of Indian Penal Code read with Section 3 of the MPID Act, 1999. Since the date of registration of the said offence, accused No.3 was absconding. The investigating agency was constrained to file an application under Section 83 of the Criminal Procedure Code and original accused No.3 was declared as a proclaimed offender. Pursuant to the said proclamation the property of the accused No.3 was to be attached. The Investigating agency had attached the property situated at C-41 and C-42 out of Old Survey No.359/6/4 New Survey No.27/6/4 was also attached since it was not known to the investigating agency that the petitioner had purchased th said property. Hence, the petitioner has filed the present Writ Petition.

5. Today, the investigating officer of Crime No.285 of 2012 registered at Vijapur Naka Police Station, Solapur is present before the Court. The learned APP, upon instructions from the I.O., makes a statement

that accused No.3 has been arrested on 9.8.2015 and is in custody. Hence, the learned Magistrate can consider the application seeking release of the property purchased by the petitioner on 2.9.2011 i.e. prior to registration of the said crime. In fact, the prayer has become infructuous as the attachment order remains in force only till the absconding accused is arrested and taken into custody. The learned Magistrate shall consider the application from this perspective. The petitioner shall file a fresh application seeking release of the property which is attached. The learned Magistrate can consider the application and decide the same within one week from the date of its filing.

Writ Petition is disposed of in the above terms.

(SMT.SADHANA S.JADHAV, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed order.