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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2886 OF 2015**

Ms. Swarnika Vidhan Chandra Arya	Petitioner
versus	
The State of Maharashtra	Respondent

Mr. Ashok M. Saraogi, advocate for the petitioner.
Mrs. P. H. Kantharia, APP for the State.

**CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.**

DATED : 24th JULY, 2015.

P.C.:

Heard Mr. Saraogi, learned counsel for the petitioner and Ms.
Kantharia, learned APP for the State.

2. The petition is filed for following relief :“

a) that this Hon'ble court be pleased to issue appropriate writ, order and directions directing the Respondents to forthwith remove the seal put on the premises being premises situated at Asha Palace, next to Mochi Hyundai Showroom, Chincholi Bunder, Link Road, Malad (W), Mumbai – 400 064 and allow the Petitioner to continue with her business on such terms as this Hon'ble Court may deem fit and proper in the matter.”

2. Mr. Saraogi, learned counsel for the petitioner submits that the petitioner is carrying on business in the name and style of M/s.Qafilaa

Lounge in the premises situated at Asha Palace, Near Vijay Industrial Estate, Chincholi Bunder Link Road, Malad (West), Mumbai – 400 064 as licensee. He also submits that one Santosh G. Kudwalkar and his family members are the owners of the said premises. He further submits that the license is in subsistence. It is the case of the petitioner that during subsistence of the license, the owner – Santosh G. Kudwalkar and others tried to take forcible possession of the said premises. Therefore, the petitioner was constrained to file S.C.Suit No.975 of 2015 before the City Civil Court at Dindoshi, Goregaon, Mumbai. In this suit, the petitioner filed notice of motion No.1245 of 2015 for interim relief and after hearing the owners, ad-interim was granted. Despite the above position, the owners tried to take forcible possession of the said premises and, therefore, the petitioner was compelled to file FIR No.246 of 2015 with Bhangur Nagar Police Station against the said owners for the offences punishable under Sections 452, 454 read with Section 34 of the Indian Penal Code, 1860. The grievance of the petitioner is that though the police have arrested the accused in the said CR. viz. the owners, they have illegally sealed the said premises. Mr. Saraogi lastly submitted that the order of the City Civil Court mentioned above is still operation and there is no order counter to this order in force.

3. Mrs. Kantharia, learned APP, having taken instructions from the officer concerned, submits that the premises are not sealed but in order

to avoid breach of peace and damage to the property in the said premises, the police have locked the said premises. She submitted that she will submit to the orders of the Court.

4. We have perused the ad-interim order passed by the City Civil Court on 13th April, 2015, in the said notice of motion. The order is passed after hearing the learned counsel for the petitioner as well the owners of the said premises respectively. The statement of the owners' advocate is also recorded that the owners will not evict the petitioner without following due process of law.

5. In the light of the aforesaid order of the City Civil Court, the police are not justified in sealing the said premises or putting lock on the door of the said premises. We, accordingly, direct the police to remove the seal/lock and handover the possession of the said premises to the petitioner.

6. In the light of the above order, the writ petition is disposed of.

7. All concerned to act upon a copy of this order duly authenticated by the Registry of this Court.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)