

JPP

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION**

CRIMINAL APPEAL NO. 1066 OF 2014

The State of Maharashtra.

... Appellant.

V/s.

Chandra @ Shankar @ Sanjay Putayya
Suvarna @ Nagesh Vishnu Pawar and Ors. ... Respondents.

Mrs. S.D. Shinde, APP for the State.
Mr. Aniket Vagal for the Respondents.

**CORAM : P.V. HARDAS &
Dr. SHALINI PHANSALKAR-JOSHI, JJ.**

JANUARY 27, 2015.

P.C. :-

This Appeal has been filed by the State questioning the correctness of the order dated 12.9.2012 passed by the Ad-hoc Additional Sessions Judge, for Greater Bombay. The aforesaid order is not a detailed or a reasoned order but is a order passed on a order sheet which reads thus :-

“ APP Mrs. Kalpana Hire present for State. PN 990298 attached to L.T. Marg P.S. is present. Accused No.1 to 4 produced from JC. Advocate for the accused is absent. Heard Ld. APP and accused on the point of charge. On going through the entire charge-

sheet I found there is no substance to proceed against accused u/s. 342, 345 and 452 of IPC therefore they are discharged from above referred offences.”

2. The principal grievance of the learned APP is that the Trial Judge while discharging the Accused/Respondents for offence punishable under Section 342, 345 and 452 of the Indian Penal Code has not given any reasons for coming to the conclusion that there was no prima-facie material for framing charge against the accused for offence punishable under Section 342, 345 and 452 of the Indian Penal Code.

3. We have heard the learned APP and Mr. Aniket Vagal, learned Counsel representing Respondents 1 to 4. With the consent of the learned Counsel for the parties therefore, we hear this Appeal finally at the stage of admission.

4. Perusal of the order impugned in the present Appeal discloses that the Trial Court has not given any reasons for discharging the accused for offence punishable under Section 342, 345 and 452 of the Indian Penal Code. The learned APP now points out to us that charge has been framed against the present Respondents for an offence punishable under Section 392 r/w. 34, 397 r/w. 34, under Section 3 r/w. 25 of the Arms Act and under Section 135 of the Bombay Police Act. The learned APP has further pointed out that during the pendency of the proceedings before the Trial Court, provisions

of the Maharashtra Control of Organized Crime (MCOC) Act, 1999, have been applied and the matter is now seized before the Special Court under the MCOC Act.

5. Mr. Aniket Vagal, learned Counsel for the Respondents has indeed conceded before us that the learned Trial Judge has not given any reasons and has conceded for quashing and setting aside the order impugned in the present Appeal and for remitting the matter back to the Special Court under the MCOC Act for deciding the question of framing of the charge under Section 342, 345 and 452 of the Indian Penal Code.

6. We, accordingly, allow this Appeal and quash and set aside the order impugned in the present Appeal that is the order passed by the Ad-hoc Additional Sessions Judge for Greater Bombay and remit the matter back to the Trial Court that is the Special Court constituted under the MCOC Act for deciding the question of framing of the charge afresh.

Appeal is thus allowed as indicated above.

(DR.SHALINI PHANSALKAR-JOSHI, J.) (P.V. HARDAS, J.)