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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 694 OF 2014

Prashant Namdev Shinde ..Applicant.
Vs.
The State of Maharashtra & Ors. ..Respondents

Mr. Kapil P. Dave, for Applicant.
Mr. H.J. Dedhia, APP for Respondent No.1-State.

CORAM: A.S. GADKARI, J.

DATE : 1st July 2015.

P.C.

1 By the present Application, the applicant is challenging the order dated 18.10.2014 passed in Misc. Application No.131 of 2014 in C.R. No.45 of 2013. The said C.R. No.45 of 2013 is registered with the Anti-Corruption Bureau, Mumbai Division under Section 13(1)(e) read with Section 13(2) of Prevention of Corruption Act, 1988. The said Application No.131 of 2014 was filed for return of seized cash amount of Rs.30,71,200/-.

2 That C.R. No.37 of 2013 is registered against the original accused namely Pradip Namdeo Patil who is the maternal uncle of the present applicant. It appears from record that the said C.R. No.37 of 2013 is registered under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 for alleged demand and acceptance of bribe amount on 2.10.2013. In the said C.R. No.37 of 2013, the chargesheet has already been filed. The record discloses that during the course of enquiry of the said offence in C.R. No.37 of 2013, the Investigating Agency seized the property involved in the present Application i.e. cash amount of Rs.30,72,200/- from the house of the accused therein which according to the Investigating Agency the property found to be disproportionate to the known income of the accused therein.

3 The applicant herein claims that he is the proprietor of Om Sai Industries and the amount seized by the Anti-Corruption Bureau was kept by him with his maternal uncle for the purpose of running his business. The applicant further submitted that he has every documents to prove the source of the said income/amount which he claims that he has kept with the original accused namely Pradip Patil.

4 Misc. Application No.131 of 2014 is rejected by the learned Special Judge under the Prevention of Corruption Act. 1988 by order dated 18.10.2014 on the ground that the investigation in the crime was incomplete as on the date of rejection of the said Application.

5 Heard the learned Counsel for the applicant and the learned APP at length.

6 The learned Counsel for the applicant reiterates his contention as has been mentioned in the present Application and submits that he has sufficient documents in support of his contention to prove the claim that the amount seized by the Investigating Agency belongs to him and he had kept the said amount with his uncle for the purpose of applicant's own business. Upon a query put to the learned APP, the learned APP on instructions from the Investigating Officer submitted that the investigation in the present crime no.45 of 2013 is completed and the papers/record pertaining to the said investigation has been submitted to the Office of the Director General of Police for according sanction in the matter and the same is awaited.

7 In my view, though the investigation has been completed by the Investigating Agency, the report as contemplated under Section 173(2) of Cr. P.C. is yet to be submitted before a Court of competent jurisdiction. As the sanction from the competent authority is awaited, unless the report under Section 173(2) of Cr. P.C. is submitted before the Court of competent jurisdiction it cannot be said that the investigation is completed. I, therefore, find that there is no change in the circumstance as was mentioned by the impugned order dated 18.10.2014 thereby rejecting the Application of the applicant for return of property.

8 In view of above, the present Application is rejected. It is, however, made clear that this Court has not expressed any opinion on the merits of the present case and the applicant is at liberty to file a fresh Application before the Trial Court, if so advised, after final report under Section 173(2) of Cr. P.C. is submitted by the Investigating Agency.

(A.S. GADKARI,J.)