

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1874 OF 2016

Mr.Vikram Chaudhari, Senior Advocate a/w Mr.Sanjay
Agarwal, Mr.M.K.Kocharekar, Ms Neha Ahuja, Ms Nutan
Singh i/b Prompt Legal for the Petitioner
Mr.H.S.Venegavkar a/w Mr.D.P.Singh for the Union of
India
Ms M.H.Mhatre, APP for State

. Not on board. Taken on board.

1 Heard the learned senior counsel for the
petitioner. The prayer made in this petition under
Article 226 of the Constitution of India is for
quashing that part of the order dated 27th April
2016 passed by the learned Sessions Judge under the
Prevention of Money Laundering Act, 2002 (for short
'the said Act') by which non bailable warrant was
issued against the petitioner and other accused
(accused No.3, 16 to 14). Some of the co-accused who
were aggrieved by the same order dated 27th April
2016 against whom non-bailable warrant were issued
filed Criminal Writ Petition N.1734 of 2016 before
the Division Bench of this Court. We may note here
that apart from challenging that part of

the said order by which non-bailable warrant was issued against the said petitioners, there were other prayers made in the said petition. By a detailed Judgment and order dated 5th May 2016, the Division Bench, while issuing notice to the respondents in respect of the other prayers except the prayer for quashing the non bailable warrant, specifically rejected the relief in respect of that part of the order by which non-bailable warrants were issued. In paragraphs 6 to 9, the Division Bench recorded reasons for rejecting the relief in respect of that part of the order dated 27th April 2016 regarding issuance of non bailable warrants against the petitioners.

2 The learned senior counsel pointed out that against the said order dated 5th May 2016, a Special Leave Petition has been filed by the petitioners therein which is kept on 18th July 2016 and the non bailable warrants have been stayed by the Apex Court. He also invited our attention to the order dated 18th May 2016 passed by the Apex Court wherein for the reliefs which are sought in this petition, Special Leave Petition was filed by the present petitioner before the Apex Court. The learned senior counsel submitted that the said Special Leave Petition came up before the Apex Court on 18th May 2016 when it was felt that as there were subsequent events, the petitioner herein should first approach this Court. He also pointed out the order dated 20th May 2016 passed by a Division Bench in Vacation in Criminal Writ Petition No.1868 of 2016 and other

connected matters filed by the petitioner in this petition and the petitioners in other connected petitions. He also invited our attention to the order dated 20th May 2016. He submitted that the petitioner in this petition was protected till 10th June 2016. He pointed out that the learned Single Judge by a detailed order felt that the matter should be placed before the Division Bench and therefore, a direction was issued to place the same before the Hon'ble the Chief Justice. His submission is that on 11th May 2016, the Apex Court has entertained a Special Leave Petition against the order dated 5th May 2016 and the ad-interim relief has been granted therein. He submitted that the order of the Apex Court dated 18th May 2016 passed in the Special Leave Petition filed by the petitioner will show that this Court will have to entertain this petition on merits.

3 We have considered the submissions. As far as the order dated 5th May 2016 in Criminal Writ Petition No.1734 of 2016 is concerned, it is not in dispute that the same is in a petition filed by some of the co-accused in the same case against the order issuing the non bailable warrant by the order dated 27th April 2016 which is impugned in this petition. For the reasons recorded, the Division Bench as specifically rejected the prayer made by the petitioners therein for challenging the order issuing non bailable warrant. Paragraph 10 of the said Judgment and order reads thus:

"10....The relief claimed in respect of issuance of non bailable warrant, therefore, stands rejected."

4 As stated earlier, for the reasons recorded in the order dated 5th May 2016, the said prayer has been rejected. The rejection is in the case of the co-accused who are admittedly similarly placed as the petitioner in this petition. Though the Apex Court has issued notice in the Special Leave Petition, so long as the order dated 5th May 2016 passed by the Co-ordinate Bench is not set aside, the same will continue to bind this Bench. In fact, if any contrary view is taken, this Bench will be committing judicial impropriety.

5 The order dated 18th May 2016 passed by the Apex Court in Special Leave Petition filed by the petitioner herein reads thus:

"Learned counsel for the petitioner seeks permission to withdraw this Special Leave Petition with liberty to the petitioner to approach the appropriate forum.

Prayer granted.

The Special Leave Petition is dismissed as withdrawn with the aforesaid liberty."

6 Thus, the order shows that the Apex Court has not made any observations on merits whatsoever. It only records a request was made by the learned counsel for the petitioner to withdraw the Special

Leave Petition with liberty to approach the appropriate forum. The said prayer was granted. There is no specific liberty granted to file a Writ Petition in this Court.

7 Only substantive prayer in this petition is for setting aside that part of the order dated 27th April 2016 by which non bailable warrant was issued against the petitioner. In view of the order dated 5th May 2016 passed by the Division Bench of this Court in Criminal Writ Petition No.1734 of 2016 which continues to bind this Bench, we are unable to grant any relief in this petition. Accordingly, writ petition is rejected.

(A.A.SAYED,J.)

(A.S.OKA,J.)