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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION No. 328 of 2016.

Nazir Mussa ..Applicant.

Versus.

The State of Maharashtra & Ors ..Respondents.

Mr Mahesh Jethmalani, Senior Advocate a/with Ms Amva Usman
a/with Ramsing Rajput i/by Agrud Partner, for the applicant.

Smt. Anamika Malhotra, APP for the State.

Mr Vaibhav Krishna, B.R. Maurya i/by Juris Consillis for the
Intervener-original complainant.

CORAM : A.S.GADKARI, J.

DATED : 12/7/2016

P.C.

1) By the present application, the applicant has prayed, to issue directions to release the amount of security deposit, deposited in this Court and in the Court of Metropolitan Magistrate, 47th Court, Esplanade, Mumbai in the name of the Advocate for the applicant.

2) The record reveals that by an Order dated 11.6.2015 passed by this Court, the applicant was permitted to depart from India and to travel to United Kingdom on certain terms and conditions. One of the condition imposed by this Court was that the applicant shall furnish a surety in the sum of Rs.5,00,000/- or cash deposit of Rs. 5,00,000/- in lieu of surety as and by way of additional security for his appearance before the High Court. The said order dated 11.6.2015 was challenged by the original complainant Shri Shobhit Rajan in the Supreme Court by way of Special

Leave to Appeal (Criminal) Nos. 4925-4928/2015. The Hon'ble Supreme Court by its Order dated 3/7/2015 modified the Order dated 11.6.2015 and directed the applicant to furnish a cash deposit of Rs.75,00,000/- before the Trial Court. That in pursuance of the Order passed by the Hon'ble Supreme Court dated 3/7/2015, the applicant has deposited an amount of Rs.75,00,000/- in the Trial Court.

3) The learned Counsel for the applicant submitted that, as a matter of fact, the Division Bench of this Court by its Judgment and Order dated 23.10.2015 passed in Writ Petition No. 2253/2014 has quashed and set aside the proceedings of C.C. No. 234/SW/2013 and M.E.C.R.No.1 of 2013 registered with Khar Police Station which was later on transferred to Economic Offences Wing and renumbered as M.E.C.R. No.11 of 2013 by E.O.W. Unit-III, Mumbai. He further submitted that the Special Leave to Appeal (Cri) No. 630/2016 preferred by the Original complainant, Shri Shobhit Rajan against the Judgment and Order dated 23/10/2015 passed by this Court, is dismissed by the Hon'ble Supreme Court by its Order dated 12/2/2016. That as of today no criminal prosecution is pending against the applicant. The learned counsel for the applicant submitted that in pursuance of the Order passed by this Court dated 11.6.2015 his client had already deposited Rs.5,00,000/- in this Court and subsequent to the Order passed by the Hon'ble Supreme Court, his client has further deposited an amount of Rs.75,00,000/- in the Trial Court, totalling to Rs.

80,00,000/-. He, therefore, submitted that the applicant may be permitted to withdraw the amount deposited in this Court and in the Trial Court.

4) It is to be noted here that the applicant has deposited an amount of Rs.75,00,000/- in the Registry of the Trial Court in pursuance of the Order dated 3/7/2015 passed by the Hon'ble Supreme Court. According to me, the judicial propriety demands that the applicant is required to make an application before the Hon'ble Supreme Court for withdrawal of the said amount, as under the Orders of the Supreme Court, the said amount is deposited by the applicant.

5) In view of the above, the learned counsel for the applicant seeks leave to withdraw the application with liberty to approach the Hon'ble Supreme Court.

6) Leave and liberty granted.

7) The application is disposed off as withdrawn.

(A.S. GADKARI, J.)