

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

**CRIMINAL REVISION APPLICATION NO.424 OF 2014**

**Sudarshan Kumar Abrol & Anr.**

**..... Applicants**

**V/s**

**Union of India & Anr.**

**..... Respondents**

Mr. P.L. Shetty i/b Mr. Jayesh A. Vithlani for the Applicants.

Mr. Sandeep K. Shinde for the Respondent No.1/UOI.

Dr. F.R. Shaikh, APP for the State/Respondent No.2.

**CORAM : A.S. OKA &**

**A.A. SAYED, JJ.**

**DATED : 16 AUGUST 2016**

**ORDER:**

1 Heard the learned Counsel appearing for the Applicants and the learned Counsel appearing for the Respondent No.1. By the impugned order dated 15 November 2014, the learned Special Judge (CBI) Greater Mumbai) has rejected the Application for discharge filed by the Applicants. The Applicants are accused Nos.5 and 7 who have been charge-sheeted by the CBI for the offences punishable under sections 406, 420, 467, 468, 471 read with section 120B of the Indian Penal Code as well as sections 13(2) read with section 13(1)(d) of the Prevention of Corruption Act, 1988. Perusal of the impugned order shows that a

specific contention was urged based on rejection of sanction before the learned Special Judge. In paragraph 19 of the impugned order, the learned Special Judge has held thus:

*“19 In the light of above discussed position, in my mind, the arguments advanced by the Ld. Counsel for applicants on the point of sanction in case of applicants, need not require attention at this stage of the proceeding. Certainly, at the appropriate stage, this court will take the note of the same as well as the ratio in the rulings relied upon by him to met with ends of justice.”*

2 In our view, the issue raised by the Applicants ought to have been decided by the learned Special Judge one way or other and the consideration thereof could not have been postponed. We have heard the learned Counsel appearing for the Respondent who submits that instead of keeping the Revision Application pending in this Court, the same may be made remanded to the learned Special Judge for fresh consideration.

3 In our view, the approach adopted by the learned Special Judge as reflected from paragraph 19 of the impugned order is erroneous and therefore, the Application made by the Applicants at Exhibit 23 will have to be reconsidered by the learned Special Judge. Accordingly, we dispose of the Criminal Revision Application by passing the following order:

- i) The impugned order dated 15 November 2014 is hereby quashed and set aside and the Application for discharge at Exhibit 23 in Special Case No.67 of 2013 is restored to the file of the learned Special Judge (CBI). We direct the parties to appear before the learned Special Judge (CBI) on 24 August 2016 at 11 a.m.. An authenticated copy of this order shall be produced by the parties before the learned Special Judge;
- ii) Considering the fact that the Application for discharge was filed in the year 2014, the learned Special Judge shall give necessary priority to the disposal of the said Application in accordance with law;
- iii) All contentions on merits are kept open.

**(A.A. SAYED, J.)**

**(A.S. OKA, J.)**

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