

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 3609 of 2015

Sanjay Vyas and Ors. } Petitioners
 } versus
Union of India and Ors. } Respondents

Mr. Vikram Nankani - Senior Advocate
with Mr. Sanjay Agarwal and Ms. Neha
Ahuja i/b. Mr. H. K. Sudhakara for the
Petitioners.

Mr. Pradeep S. Jetly for the Respondents.

CORAM :- S. C. DHARMADHIKARI &
 G. S. PATEL, JJ.

DATED :- JANUARY 4, 2016

P.C. :-

The Writ Petition under Article 226 of the
Constitution of India seeks following two substantive reliefs:-

(a) to issue an appropriate writ, order or direction
striking down the impugned second proviso to sub-
rule (3) of Rule 4 of the Compounding Rules as ultra
vires of section 137(3),

or

In the alternative to read down and expound the
scope and extent of the impugned proviso to apply
only to such cases where the applicant/assessee seeks
compounding of the offence after adjudication
proceedings against him are completed, and his
liability to penalty etc is determined, and not to a case
where an assessee approaches for compounding of the
offence even before such adjudication takes place,

(b) And consequently, to issue a writ of mandamus or in the nature of mandamus directing Respondent no. 3 to expeditiously decide on merits, the application dated 05-10-2015 for 'Compounding' (at Exhibit-'B' supra), without waiting for the adjudication of the case.

2) After some arguments, Mr. Nankani, learned Senior Counsel appearing for the Petitioners would submit that the Petitioners would be satisfied presently with a direction to Respondent No. 3 to consider application dated 5th October, 2015, copy of which is at Annexure 'B' to the Petition and communicate the decision thereon as expeditiously as possible.

2) On instructions, it is stated that the Petitioners are presently not pressing the challenge to the validity and legality of the Rule, particularly Second Proviso to sub-Rule 3 of Rule 4 of the Compounding Rules.

3) Upon such a limited request, we inquired from Mr. Jetly appearing for the Respondents as to whether the Respondents would communicate the decision on the application made by the Petitioners as expeditiously as possible.

4) Mr. Jetly states that the decision on the application stated to be one made for compounding of certain offences would be communicated within a period of four weeks from the date of receipt of a copy of this order. We accept this statement as an

undertaking given to this Court. We direct that till the decision as above is communicated to the Petitioners, the Respondents shall not launch any criminal prosecution against the Petitioners. We do not think that any other order or protection is needed and necessary. This order is passed without prejudice to the rights and contentions of both sides.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)