

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 78 OF 2016

(Dimple w/o Kamlesh Kanungo vs. vs. State of Maharashtra thr. Investigating Officer of the
Economic Wing Offence, Crime Branch, Nagpur) WITH

CRIMINAL WRIT PETITION NO. 79 OF 2016

(Naresh S. Chandan & Anr. vs. State of Maharashtra thr. Police Station Officer, Economic
Offences Wing, Crime Branch, Nagpur) AND

CRIMINAL WRIT PETITION NO. 173 OF 2016

(M/s. Essar (India) Limited vs. vs. State of Maharashtra thr. Sr. Inspector of Police, Economic
Offence Wing, Crime Branch, Nagpur)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
A.S. CHANDURKAR, JJ.
SEPTEMBER 30, 2016.**

We have yesterday heard at length Shri D.V. Chauhan, learned counsel for the petitioners in CWP Nos. 78/2016 and 79/2016, Shri S.P. Dharmadhikari, learned Senior Advocate with Shri R.S. Kurekar, learned counsel for the petitioner in CWP No. 173 of 2016 and Shri V.A. Thakare, learned APP for the respondents in all the matters.

Only to understand the implication of last paragraph of the impugned communication dated 25.09.2015 in Criminal Writ Petition No. 173 of 2016 and similar paragraph of communication dated 09.12.2015 in Criminal Writ Petition No. 78 of 2016, the matters came to be adjourned to today.

Today, the learned APP with the assistance of responsible officers (including Investigating Officer) states that the notice impugned in all three matters are basically issued under Section 102 of the Criminal Procedure Code.

If the amount/ proceeds as claimed therein are not recovered, further action in accordance with law shall be taken.

Yesterday, after hearing the respective counsel, we had expressed doubt about the correctness of last paragraph, by which the petitioners were warned that in case of their failure to deposit the amount as demanded, inference of their participation in the offence shall be drawn.

The learned APP, upon instructions, states that recovery of money and participation in crime are two distinct and independent aspects, and the provisions of law shall be adhered to in this respect.

The respective counsel for the petitioners inform that in the identical matters, this Court has protected the parties like the petitioners by asking the Investigating Officer to issue previous notice of 72 hours in case the arrest becomes necessary. They assure that the petitioners are ready and willing to cooperate with the Investigating Officer.

The learned APP submits that the previous notice may not be of duration exceeding 24 hours.

The petitioners before this Court are from Mumbai and sometime, therefore, may be required in undertaking the journey. It is claimed that all the petitioners are active businessmen/ businesswoman, therefore, some arrangement may also be necessary in that respect.

In this situation, accepting the statement made

that the impugned notices dated 25.09.2015 in CWP No. 173 of 2016; dated 09.12.2015 in CWP No. 78 of 2016 and dated 23.08.2015 in CWP No. 79 of 2016, shall be read as confined only to under Section 102 of the Code of Criminal Procedure and as this Court has already protected the petitioners in present petitions by passing appropriate interim orders, with direction to the Investigating Officer to issue 72 hours notice of arrest, if it becomes necessary, we dispose of the present criminal writ petitions.

The petitioners shall, however, on affidavit furnish their residential addresses and also all Mobile numbers, e-mail etc. on which they can be reached/ contacted. Any communication sent on any of those numbers shall be treated as sufficient compliance of requirement of previous notice.

With this observations and directions, we dispose of the present petitions. No order as to costs.

JUDGE

JUDGE

*GS.

C E R T I F I C A T E

“I certify that this Order uploaded is a true and correct copy of original signed Order.”

Uploaded by : G. Shamdasani

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