

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 344 of 2016.
WITH
CRIMINAL APPLICATION No. 668 of 2016
IN
CRIMINAL APPEAL No. 344 of 2016.
WITH
CRIMINAL APPLICATION No. 1180 of 2016
IN
CRIMINAL APPEAL No. 344 of 2016.

Lotus Refineries Pvt Ltd	 Appellant.
V/s.	
State of Maharashtra & Anr	 Respondents.

Mr Mihir Desai, Senior Advocate a/with Mr. Dilip H. Shukla for the appellant.
Mr Avinash Avhad, Spl. PP. for Respondent No.1.
Mr Sandeep Karnik for the applicant in Cr.Appln.No.1180 of 2016.
Mr Dilip Shinde a/with Ms. Priyanka Gaonkar for Intervener in Cr. Appln.No. 668 of 2016.

CORAM : S.C. DHARMADHIKARI &
SMT.BHARATI H.DANGRE, J.J.

DATE : 9th OCTOBER, 2017.

P.C. :

1 We have heard Mr. Desai, learned Senior Advocate appearing for the appellant and Mr Avhad, learned Special PP. appearing on behalf of the State. We have also heard the learned Advocate, objecting to grant of any relief in this appeal/Intervener.

2 After the appeal was argued for sometime, Mr. Mihir Desai, learned Senior Counsel, on instructions, makes a statement that the appellant/applicant will make a proper application setting out the objections and in terms of the statutory provision, namely, sub-section (3) of Section 7 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999. He states that he would withdraw the application before the Trial Court on which certain orders have been passed.

3 Thus, Mr Desai states that the purported objection (Exh.128) copy of which is at page 108 (Exh.123) of the paper book as also miscellaneous application No.375/2015 in MPID Special Case No.1/2014 be allowed to be withdrawn and the appellant-applicant will make fresh application in accordance with law.

4 We have clarified to Mr Desai that we are not impressed by the arguments of the appellant-applicant on merits, namely, that there was any objection to the attachment in terms of these applications and therefore the order under appeal dated 23rd July, 2015 in Misc.Application No. 130 of 2014 calls for no interference. However, Mr Desai stated that if the applications were incomplete and did not raise objections specifically, then, for want of lack of proper pleading, the cause of the appellant-applicant should not suffer. More so, when there are civil disputes pending.

5 In the above circumstances, we do not think that any opinion should be expressed on the contentions on merits. However, in the facts

and circumstances peculiar to this case, we allow the appellant-applicant to withdraw the applications Exh.123 with liberty to file proper application claiming the reliefs which are subject matter of Exh.123. We keep open the contentions of all the parties.

6 In the event, such an application is made again and pursuant to this statement recorded by us, the learned Judge shall consider it properly and not in a perfunctory manner, as is now complained of. We do not think that any noting in the daily Roznama can displace the requirement of a reasoned order that would have to be passed on the objections.

7 The learned Judge would be well advised not to resort to any short-cuts nor take assistance of some phraseology which is coined by the parties for their convenience, for example, TOR (Taken on record). He should refer to specific statutory provisions based on which the application is made and the power he is exercising in dealing with it. In the absence of any such indication, it is difficult for the higher Court to find out what is the exact grievance of parties like the appellant. The proceedings under the Act are serious in nature. The State as also the other stake holders, have acted to protect the interest of the depositors in the financial establishments pursuant to a law enacted by the competent legislature. The object and purpose of such legislation and equally the opportunity contemplated in terms thereof to parties like the appellant should not be defeated by the trial Court resorting to a manner of disposal of the application which is unknown to law.

8 We therefore clarify that all contentions and pleas can be raised in the event an objection is filed by the appellant-applicant and that be considered on its own merits and in accordance with law. The appeal is disposed of accordingly.

9 We clarify that we have not expressed any opinion on the rival contentions as far as the merits are concerned. All criminal applications are disposed of.

[SMT.BHARATI H.DANGRE, J.]

[S.C. DHARMADHIKARI, J.]