

- b) in the alternative, but without prejudice to prayer clause (a) above, this Hon'ble Court may be pleased to quash and set aside the orders dated 20.6.2017 and 5.7.2017, passed by the Ld. Special Judge for CBI Cases, Mumbai concerning Special Case No.58 of 2015;
- c) pending the hearing and final disposal of this application, this Hon'ble Court may be pleased to stay the execution, implementation and/or effect of the orders dated 20.6.2017 and 5.7.2017 passed by the Ld. Special Judge for CBI Cases, Mumbai concerning Special Case No.58 of 2015 by which non-bailable warrant has been issued and/or directed to be remain in vogue as against the Applicant;
- d) interim and ad-interim relief in terms of prayer clause (c) above be granted;
- e) any other and further order and/or direction as the circumstances of the case may require.

3 Revision Petition bearing No.523 of 2016 in which the instant application is filed is for following reliefs, as seen from the prayer clause :

- a) that this Hon'ble Court may be pleased to call for the records and proceedings concerning Special Case No.58 of 2015 from the court of the Ld. Special Judge, CBI, Mumbai and after examining the legality, validity and/or propriety of the impugned order dated 22.8.2016, passed on Exh.19, being Exhibit-'G' annexed herewith, may be pleased to quash and set aside the same and the Applicant be directed to be discharged.
- b) pending the hearing and final disposal of this application, this Hon'ble Court may be pleased to stay all further proceedings concerning Special Case No.58 of 2015 pending in the court of the Ld. Special judge, CBI, Mumbai;

- c) interim and ad-interim relief in terms of prayer clause (b) above be granted;
- d) any other further order and/or direction as the circumstances of the case may require.

4 Heard the learned Senior Counsel appearing for the applicant/accused No.2. By taking me through the chronology of events which took place, the learned Senior Counsel argued that all the way, the revision petitioner was ready to work out the matter, but it was adjourned from time to time. My attention is drawn to the Orders dated 03/07/2017 as well as 23/08/2017 passed in subject Criminal Revision Petition wherein this Court had recorded statement of the learned Advocate appearing for the CBI that the prosecuting agency will not press for framing the charge in the trial. Vide Order dated 23/08/2017 passed by this Court, it was ordered that the trial Court shall not frame the charge till next date of hearing. The Order dated 03/07/2017 passed by this Court in the revision petition filed by the present applicant was pointed out to demonstrate that the learned Advocate appearing for the CBI had made a statement that till next date of hearing before the trial Court, the prosecution will not press for framing the charge.

5 The learned senior counsel then drew my attention to development which took place in the trial by pointing out Order dated 07/06/2017, 20/06/2017 as well as 05/07/2017 and

submitted that when the revision petition was never protracted at the instance of the revision petitioner, the learned trial Court ought not to have passed the order issuing non-bailable warrant and even issuing proclamation against the accused No.2.

6 What is sought to be challenged in the instant petition is an Orders dated 07/06/2017 as well as 05/07/2017 passed by the learned trial Court. By Order dated 07/06/2017, the learned trial Court directed that accused No.2 should furnish evidence of the Doctor attending him for establishing the fact that he was unable to attend the trial Court. The learned trial Court on 07/06/2017 with this Order had granted personal exemption to the accused No.2 from appearing before the Court. The next date was given to 20/06/2017.

7 On 20/06/2017, the learned trial Court observed that order dated 07/06/2017 is not complied. The accused No.2 i.e. revision petitioner was also not present. Therefore non-bailable warrant was issued against accused No.2 on 20/06/2017. It appears that then an application came to be moved for recalling the non-bailable warrant which came to be disposed of by an order dated 05/07/2017. The said application for recalling the non-bailable warrant moved by the accused No.2 i.e. revision petitioner came to be rejected by giving reasons by the learned trial Court.

8 Orders impugned in the instant application dated 20/06/2017 and 05/07/2017 are beyond the scope of prayer made in the revision petition bearing No.523 of 2016. As such, the prayer made in the instant application cannot be considered in the Revision Petition bearing No.523 of 2016.

9 The Criminal Application is, therefore, rejected.

10 The applicant shall be at liberty to take out appropriate proceedings as provided by law.

(A.M.BADAR J.)