

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPEAL NO.1349 OF 2008

Manik Anant Patil	 Appellant
Vs.	
The State of Maharashtra	 Respondent

Mr. Sudeep Pasbola with Mr. Bhavesh Thakur &
Mr. Rahul Arote for the Appellant.
Ms M.M. Deshmukh, APP, for the Respondent-State.

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

DATE : DECEMBER 04, 2017

P.C:

1. Heard Mr. Pasbola, appearing for the appellant.
2. By this Appeal under Section 12 of the Maharashtra Control of Organised Crime Act, 1999 ("the MCOC Act" for short), the appellant challenges order dated 24-11-2008 below Exhibit-8 in Special Case No.14 of 2006.
3. By the order under challenge, the learned Judge of

the Special Court set up under the MCOC Act has refused to discharge the appellant from the offences alleged and punishable under that law.

4. The special case is pending before the Competent Court. It is Special Case No.14 of 2006.

5. It is traceable to an FIR registered on 19-6-2002 at Nalasopara Police Station and the investigations thereafter revealed, according to the prosecution, as to how the ingredients of the offence punishable under the MCOC Act are satisfied.

6. The appellant argues otherwise. The trial Court found, on the basis of the *prima facie* material, that a case of discharge has not been made out. Hence, the refusal to discharge.

7. We have heard Mr. Pasbola at some length. Upon a perusal of the Appeal and the annexures thereto, we are of the opinion that no useful purpose will be served by keeping this

Appeal pending. The appellant has challenged the decision on the discharge application but neither the discharge nor acquittal has come through. Meaning thereby, the Appeal is not disposed of finally nor any headway is made in the special case.

8. We are of the opinion that instead of going into the rival contentions and the same *prima facie* materials, in the peculiar facts and circumstances of this case, interest of justice would be served if we direct the special case to be tried in accordance with law and disposed off as expeditiously as possible. Let therefore, the trial in the special case be concluded in accordance with law.

9. We, however, clarify that it would be open for the appellant during the course of his arguments on merits to urge that none of the ingredients enabling the prosecution to apply the MCOC Act are satisfied. All the more, when the prosecution refers to certain cases in which charge-sheets have been filed in those very cases the accused have earned acquittal. Let this point be therefore kept open and to be urged during the course of

arguments before the Special Court. In the event the final orders in the special case are adverse to the appellant, then, while challenging them as well, the appellant can raise this point and which is touching the jurisdiction and authority of the Special Court. By keeping that point and the contentions open, we dispose of this Appeal.

(SMT. BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI, J.)