

**HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

WRIT APPEAL NO.262 OF 2015

ORDER: (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred by the Joint Director of Enforcement (Prevention of Money Laundering Act, 2002) of the Government of India against the order passed by the Learned Single Judge in W.P. No.17525 of 2014 dated 22.12.2014.

Elaborate oral submissions were made by Sri T. Niranjan Reddy, Learned Senior Counsel appearing on behalf of the appellant and Sri S. Ravi, Learned Senior Counsel appearing on behalf of the respondent-writ petitioner, over 23 sittings from 07.12.2016 till the conclusion of the hearing on 06.03.2017. In order to enable both the Learned Counsel for the appellant and the respondent-writ petitioner to file their written submissions, we had directed the writ petitioner to be posted initially on 20th March, 2017, and thereafter to the 30th of March, 2017. Today, i.e., 30.03.2017 Sri S. Ravi, Learned Senior Counsel would submit that, in view of the law declared by the Supreme Court in **Ram Kishan Fauji v. State of Haryana**¹, an appeal under Clause 15 of the Letters Patent, against an order passed in a Writ Petition filed under Article 226 of the Constitution of India to quash the complaint filed by the Directorate of Enforcement in S.C. No.1 of 2014 before the XXI Additional Chief Metropolitan Magistrate, Hyderabad-cum-Special Sessions Court, Hyderabad, is not maintainable.

¹ (Judgment in Civil Appeal No.4288 of 2017 dated 21.03.2017)

Sri T. Niranjan Reddy, Learned Senior Counsel for the appellant on the other hand would submit that the Supreme Court had earlier, by its order dated 11.05.2015, requested this Court to take up the appeal, and to hear and dispose of the same as early as possible preferably within a period of four months from the date of the order; the aforesaid order of the Supreme Court required this Court to dispose of the Writ Appeal; and in the light of the aforesaid order, and as it has heard the matter in great detail, this Court should decide the Writ Appeal on its merits, and not relegate the petitioner to the remedy of questioning the order of the Learned Single Judge before the Supreme Court.

The appellant herein had earlier filed SLP (CrI.) No.3599 of 2015 against the order passed by a Division bench of this Court in W.A.M.P. No.768 of 2015 in W.A. No.262 of 2015 dated 01.04.2015 whereby, while permitting the Trial Judge to consider framing of charges, the Division bench had directed that, in the event charges were framed, no further steps should be taken pursuant to the charge being framed against the respondent-writ petitioner. In its order in SLP (CrI.) No.3599 of 2015 dated 11.05.2015 the Supreme Court, while taking note of the fact that the appeal preferred against the order of the Learned Single Judge was pending consideration before the Division bench, requested the High Court to hear the appeal filed by the Joint Director of Enforcement, Government of India on its merits, and to make an endeavour to dispose of the same as expeditiously as possible preferably within a period of four months from the date of the order; and till then proceedings before the trial Court would remain stayed. The fact, however, remains that the Writ Appeal could not be heard and decided within the four month period stipulated by the Supreme Court in its order dated 11.05.2015.

In **Gangaram Kandaram v. Sunder Chikha Amin**², a Full Bench of this Court had held that exercise of power under Article 226 of the Constitution of India, by issuing a writ to quash the FIR, was not in the exercise of its criminal jurisdiction; no doubt, against the order under Section 482 Cr.P.C. or against proceedings under the Contempt of Courts Act, no appeal would lie under Clause 15 of the Letters Patent; however, the judgment quashing the FIR was in the exercise of the original jurisdiction of the Court under Article 226; and against such an order, a writ appeal would lie under Clause 15 of the Letters patent.

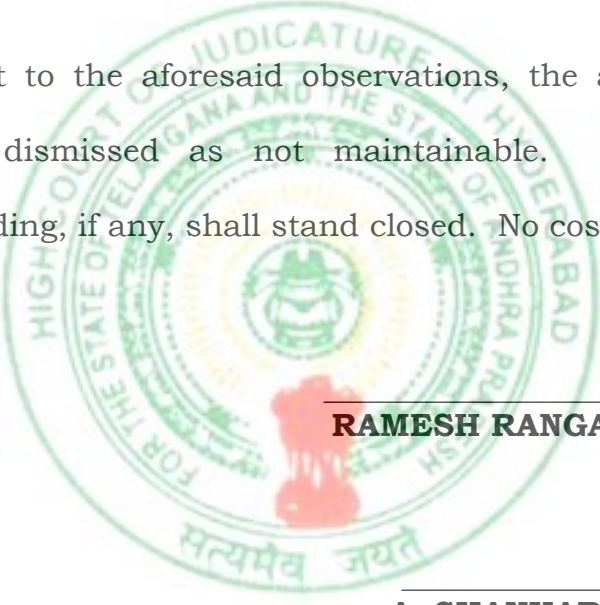
In **Ram Kishan Fauji**¹ the Supreme Court, while examining the question whether the Letters Patent Appeal preferred before the Division bench against the exercise of criminal jurisdiction by the Learned Single Judge was maintainable, held that the law declared by the Delhi and Gujarat High Courts in this regard were correctly decided, and the view expressed by the Full bench of this Court, in **Gangaram Kandaram**², was incorrect. The Supreme Court observed that an order passed by the Learned Single Judge, in the exercise of its jurisdiction under Article 226 of the Constitution of India relating to criminal jurisdiction, could not be made the subject matter of an Intra-Court Appeal.

The judgment of the Full bench, in **Gangaram Kandaram**², has been specifically held by the Supreme Court, in **Ram Kishan Fauji**¹, not to have laid down the correct law. As the present appeal has been preferred by the Directorate of Enforcement against the order of the Learned Single Judge quashing the complaint filed by the Enforcement Directorate in S.C. No.1 of 2014, an intra-court appeal, under Clause

² 2000 (2) ALD 824 (FB)

15 of the Letters Patent, is not maintainable in view of the law declared by the Supreme Court in **Ram Kishan Fauji**¹. As an Intra-Court Appeal, under Clause 15 of the Letters Patent, does not lie, we cannot accede to the request of Sri T. Niranjan Reddy, Learned Senior Counsel for the appellant, that the Writ Appeal should be heard and decided on its merits. Since the Directorate of Enforcement has been diligently agitating this grievance before a Division bench of this Court, as though it had jurisdiction, we grant them liberty (as was granted by the Supreme Court in **Ram Kishan Fauji**¹) to assail the order of the Learned Single Judge in accordance with law.

Subject to the aforesaid observations, the appeal fails and is, accordingly, dismissed as not maintainable. The miscellaneous petitions pending, if any, shall stand closed. No costs.



RAMESH RANGANATHAN, ACJ

A. SHANKAR NARAYANA, J

Date: 30.03.2017.

MRKR