

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.684 of 2017

ORDER:

This criminal petition is filed seeking for quashing of the proceedings in C.C.No.165 of 2016 on the file of the Special Judge for Economic Offences, Nampally Criminal Courts, Hyderabad.

2. Heard learned counsel for the petitioners and learned Public Prosecutor and with their consent, the criminal petition is disposed of.

3. The counsel for the petitioners contends that against the penalty order, the petitioners went in appeal before the Commissioner and the penalty order was confirmed and against the same, an appeal was filed in the High Court and the same is pending. Hence, these proceedings would be an abuse of process of Court. In support of his contention that the proceedings need to be stayed, he relies on an order of this Court passed in CrI.P.No.6053 of 2009 dated 10.08.2009, wherein the learned counsel relied on a decision of the Supreme Court in *Commissioner of Income Tax v. Bhupen Champak Lal Dalal* [(2001) 3 SCC 459] wherein it was observed as under:

“... wherein also, the appeals under the Income Tax Act before the Commissioner or the Income Tax Appellate Tribunal and prosecution for the offences punishable under the Act were simultaneously pending. The High Court granted an interim order and the Apex Court while noting that both the proceedings are independent proceedings with no impediment in law for the criminal proceedings to proceed even during the pendency of the proceedings under the Income Tax Act, observed that a wholesome rule will have to be adopted in the matters of this nature where the courts have taken the view

that when the conclusions arrived at by the Appellate Authorities have a relevance and bearing upon the conclusions to be reached in the criminal case and therefore, the postponement of the criminal proceedings will be in the interest of justice.”

4. The above decision would show that without quashing the proceedings, the Courts stayed the further proceedings till the disposal of the appeal pending therein.

5. The counsel for the respondent does not dispute the case on facts but he submits that the order may be to stay the proceedings to the extent of passing a final order but to allow the trial to go on. But, in my considered opinion, that would be a futile exercise, if later in the appeal, the petitioner succeeds. Hence, in order to avoid such futility, I deem it appropriate to stay the further proceedings.

With the above observations, the criminal petition is disposed of. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

October 16, 2017
LMV

T. RAJANI, J