IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.593 OF 2018

Mr. Vinod Rayshi Malde : Applicant.
Versus
The State of Maharashtra and anr. : Respondents.

WITH
CRIMINAL APPLICATION NO.594 OF 2018

M/s. Arham Anmol Projects Pvt. Ltd.
Through its Director
Mr. Vinod Raishee Malde : Applicant.
Versus
The State of Maharashtra and anr. : Respondents.

ALONG WITH
INTERVENTION APPLICATION NO.703 OF 2018
IN
CRIMINAL APPLICATION NO.593 OF 2018

Mr. Sushil Durchand Bothra : Intervener/Victim

In the matter of

Vinod Rayshi Malde : Applicant.
Versus
The State of Maharashtra and anr. : Respondents.

ALONG WITH
INTERVENTION APPLICATION NO.704 OF 2018
IN
CRIMINAL APPLICATION NO.594 OF 2018

Mr. Sushil Durchand Bothra : Intervener/Victim

In the matter of

M/s. Arham Anmol Projects Pvt. Ltd.
Through its Director
Mr. Vinod Raishee Malde : Applicant.
Versus
The State of Maharashtra and anr. : Respondents.

Mr. Manoj J Bhatt for the Applicants.
Mr. K V Saste, Addl. PP for the Respondent/State.
Mr. Nilesh Tribhuvan a/w Ms. Prerna Sharma and Ms. Darshana Naval for the Intervener.

CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
DATE : 28th JUNE 2018

P.C.

1 The action of the Investigating Agency i.e. the Local Crime Branch, Thane Rural of freezing the bank accounts of the Applicants in the above Criminal Application Nos.593 of 2018 and 594 of 2018 is taken exception to by way of the above Criminal Applications.

2 The action of freezing of the bank accounts is taken during the course of the investigation of FIR being C.R. No.I-259 of 2016 registered with the Bhiwandi Taluka Police Station for the offences punishable under Sections 406, 420, 467, 468, 471 and 34 of the Indian Penal Code. The Applicants and the first informant are admittedly the Directors of the Company known as M/s. Arham Anmol Projects Pvt. Ltd which is involved in the business of purchasing lands and putting up warehouses thereon. The gravamen of the allegations against the Applicants is the alleged siphoning of the funds of the said Company and depositing the same in his own account. It is towards the investigation of the said FIR, that the action of freezing the accounts which are mentioned in the prayer clause (a) of each of the above Criminal Applications has been taken.

3 In so far as the action of freezing of the accounts is concerned, a useful reference could be made to the judgments of the Apex Court in ***State of Maharashtra v/s. Tapas D. Neogy*** reported in ***(1999) 7 SCC 685*** and, ***Teesta Atul Setalvad v/s. State of Gujarat*** reported in ***(2018) 2 SCC 372***. By the said judgments, the issue of whether a bank account is "property" within the meaning of Section 102 of the Criminal Procedure Code and, whether notice is required to be given given prior to freezing of the account, have been settled by the Apex Court. The Apex Court has held that the bank account would be the property within the meaning of Section 102 of the Criminal Procedure Court and that no prior notice is required to be given prior to freezing of the bank account. The Apex Court has therefore observed that the Investigating Agency during the course of investigation can take steps of freezing the account if it so deems fit, however, the factum of freezing of the account would have to be informed to the concerned Court.

4 Hence in so far as freezing of the bank accounts of the Applicants in both the above Criminal Applications is concerned, we do not find any illegality in the said action. We are also informed by the learned Additional Public Prosecutor Shri K V Saste that the factum of freezing of the bank accounts of the Applicants has also been informed to the concerned Court. The learned counsel appearing on behalf of the Applicants Shri Manoj Bhatt would

by citing the facts and figures mentioned in his reply would contend that freezing of the bank accounts was not warranted. As indicated above the gravamen of the allegations is the siphoning or defalcation of the funds of the said Company to the Applicants own accounts. It is therefore not possible for us to go into the factual aspects as desired by the learned counsel for the Applicants and record a finding one way or the other at this stage.

5 We therefore do not find any merit in the above Criminal Application Nos.793 of 2018 and 794 of 2018 and the same are accordingly dismissed. However, it would be open for the Applicants to take appropriate recourse after the investigation is completed and final report is filed or for the Investigating Officer to take a call as regards continuation of the freezing of the bank accounts of the Applicants after the investigation is completed. Since the FIR in question is of the year 2016, we expect the Investigating Agency to complete the investigation expeditiously.

6 In view of the dismissal of the above Criminal Application Nos.793 of 2018 and 794 of 2018, the Application Nos.703 of 2018 and 704 of 2018 filed for intervention by the first informant do not survive and the same to accordingly stand disposed of as such.

[REVATI MOHITE DERE, J] **[R.M.SAVANT, J]**