IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

SUO-MOTU REVISION APPLICATION NO. 16 OF 2015

High Court on its own motion … Applicant

Vs.

State of Maharashtra … Respondents

Ms. Rebecca Gonsalves, Amicus Curiae for applicant.
Mr. Prerak P. Choudhary a/w Mr. D.J. Thakkar Advocate for Respondent Nos. 2, 3 and 5.
Mr. M.G. Patil, APP for State.

CORAM : PRAKASH D. NAIK, J.

RESERVED ON : 7th FEBRUARY, 2018
PRONOUNCED ON : 4th JUNE, 2018.

JUDGMENT

1. This pertains to the reference made by the Additional Chief Metropolitan Magistrate, 3rd Court, Esplanade, Mumbai under Section 395 (2) of Code of Criminal Procedure in CBI Special Case No. 47/2000 re-numbered as C.C. No. 860/PW/2013. After seeking directions from the court, the reference letter was registered as Suo Motu Revision Application No. 16 of 2015.

2. The reference was made under Section 395(2) of Code of

Criminal Procedure. It was stated that Special Judge (For CBI), City Civil & Sessions Court, Greater Bombay directed that the record and proceeding in CBI Special Case No. 47/2000 be sent to Chief Metropolitan Magistrate, Mumbai for due assignment of the case for its logical end vide order dated 31.07.2013. The Chief Metropolitan Magistrate, Mumbai forwarded the record and proceeding of the case to the Court of Additional Chief Metropolitan Magistrate, 3rd Court, Esplanade, Mumbai on 22.10.2013. The Additional Chief Metropolitan Magistrate, 3rd Court, Esplanade, Mumbai is assigned cases of CBI (Anti Corruption Bureau and Bank Security and Fraud Cell) hence the record and proceedings were forwarded to the said Court for its logical end. On 16.09.2000, CBI A.C.B. Mumbai submitted chargesheet against accused No.1 Dilip Rao Saheb Kamble, the Postman of Kopar Khairane Post Office (Public Servant) and other accused No. 2 to 5 (Non Public Servant) for the offence punishable under Section 120-B, 420, 409, 411, 467, 471 of Indian Penal Code and under Section 13(2) r/w. Section 13(1)(d) of Prevention of Corruption Act, 1988. The accused were present before the court and they were released on bail. Accused No.1 (Public Servant) was reported to be dead before framing of charge and hence criminal proceeding against him abated vide order dated 11.07.2002. Accused No.2 Kundan G. Dandwate was absconding, hence, his trial was separated. The charge was framed against the accused Nos. 3 to 6 on 24.08.2010. The accused Nos. 3 to 6 were non public servant and accused No.1 died before framing of charge and his case was abated before the charge was framed. It is further stated out that the learned Special Judge recorded the evidence of P.W.No.1 to 17. Thereafter, the evidence of P.W.No.18 was recorded by learned Special Judge Shri S.G. Deshpande on 18.04.2013 and also recorded the statement of accused under Section 313 of the Code of Criminal Procedure on 17.07.2013. The matter was finally argued before the said judge and it was kept for judgment on 31.07.2013. However, it was ordered to be sent to Chief Metropolitan Magistrate vide order dated 31.07.2013.

3. The reference letter also states that learned special P.P. For CBI ACB strongly objected for trial of the said case before Magistrate's Court on the ground that the charge is framed against accused No.3 to 6 for the offence punishable under Prevention of Corruption Act. He relied on the case of ***Central Bureau of***

<u>Investigation, Bank Securities & Fraud Cell, Mumbai Vs. Shri. Sham B. Bhatia & Ors. reported in 2010 ALL MR (Cri) 520</u> wherein in view of the death of the employee of the Bank (Public Servant) the application for seeking the case to Metropolitan Magistrate for trying the other accused (non-public servant) made before Special Judge and the order passed therein was challenged by CBI before the High Court. The relevant paragraph of the said decision was quoted in the reference. In the said decision it was observed that the jurisdiction of the Special Court is not divested by the death of the accused. The impugned order of sending R & P to Metropolitan Magistrate suffers from material irregularity. The said order was set aside and the matter was again transferred to Special Judge, CBI, Greater Bombay to continue the trial. In this matter, charge has been framed against the accused Nos. 3 to 6 for the offences under Sections 120-B, 420, 409, 411, 467, 471 of Indian Penal Code and under Section 13(2) r/w Section 13(1)(d) of Prevention of Corruption Act. The learned Additional Chief Metropolitan Magistrate has therefore stated that in the light of the observations made in the aforesaid decision, the Metropolitan Magistrate or Additional Chief Metropolitan Magistrate are not vested with power or conferred jurisdiction to decide the offence under Section 13(2) r/w Section 13(1)(d) of Prevention of Corruption Act, 1988 r/w Section 120-B of Indian Penal Code.

4. Ms. Rebecca Gonsalves, learned *Amicus Curiae* rendered assistance to the court. The learned counsel submitted that the reference may be answered in affirmative with directions that the Metropolitan Magistrate has no jurisdiction to try the said case more particularly in the facts and circumstances of the case. Ms. Gonsalves placed on record three decisions for consideration. The first one is in the case of *Central Bureau of Investigation, Bank Securities & Fraud Cell, Mumbai Vs. Shri. Sham B. Bhatia & Ors. reported in 2010 ALL MR (Cri) 520* which was referred by the learned Additional Chief Metropolitan Magistrate in the reference and the other decision is in the case of State through ***CBI New Delhi Vs Jitendra Kumar Singh AIR 2014 SC 1169***. The third decision is recently decided by Hon'ble Apex Court in the case of ***State of Tamil Nadu Vs. Nirmala Etc. 2018 ALL MR (Cri) 440 (SC).*** It is submitted that death of accused No.1 would not preclude the Special Court from dealing with the case. She submitted that after the death of accused No.1 (public servant), the charge was framed and the entire evidence was recorded by

the Special Court including the statement of the accused under Section 313 of the Code of Criminal Procedure, 1973. The matter was due for delivering the judgment. She further submitted that even the learned Magistrate who remitted the matter to the Court of Magistrate had recorded the statement of last witness and the statement of the accused under Section 313 of Code of Criminal Procedure, 1973. It is submitted that the accused were tried for the offence of Prevention of Corruption Act as well as under Indian Penal Code. They were charged with the offence of conspiracy punishable under the Indian Penal Code for committing other offences including offences under Prevention of Corruption Act. In the circumstances, the Special Court ought not to have relegated the matter to the Court of Metropolitan Magistrate to try the offences as the jurisdiction was vested with the Special Court.

5. Learned counsel Mr. Choudhary representing the respondents submitted that Special Court had no jurisdiction to try the case after the death of public servant. He stressed upon the fact that the accused No.1 (Public Servant) had expired and the case against him had abated before framing of charge. Thus, on the date of framing of charge only non public servant were before

the Court and therefore at that point of time, the Special Court should have sent the case to the regular Court. He submitted that the Special Court was vested with the jurisdiction to try the case on account of the fact that the public servant is being prosecuted alongwith non public servant for the offence under the Prevention of Corruption Act and the other Penal provisions. Hence, in the event of death of accused who was the public servant, the Special Court will have to be divested with the powers to adjudicate the said proceedings and the same ought to have been tried by the Court of Metropolitan Magistrate. The learned Special Judge ought not to have proceeded with the trial after the death of accused No.1. He submitted that although belatedly the Special Court has rightly forwarded the case to the regular court of Magistrate. Learned counsel strongly relied upon the observations in the case of *Jitendra Kumar Singh*(supra). He submitted that judgment of this court in the case of Sham Bhatia was set aside by the Hon'ble Supreme Court in the aforesaid decision. He pointed out that the observations of the Hon'ble Supreme Court in paragraph 45 in the case of *Jitendra Kumar Singh (supra)* which read as under :-

"45. We may now examine Criminal Appeal No. 161

of 2011, where the FIR was registered on 2.7.1996 and the charge-sheet was filed before the Special Judge on 14.9.2001 for the offences under Sections 120B, 420, IPC read with Sections 13(2) and 13(1) of the PC Act. Accused 9 and 10 died even before the charge-sheet was sent to the Special Judge. The charge against the sole public servant under the PC Act could also not be framed since he died on 18.2.2005. The Special Judge also could not frame any charge against non-public servants. As already indicated, under sub-section (3) of Section 4, the special Judge could try non-PC offences only when "trying any case" relating to PC offence has been committed by any of the non-public servants so as to fall under Section 3(I) of the PC Act. Consequently, there was no occasion for the special Judge to try any case relating to offences under the PC Act against the Appellant. The trying of any case under the PC Act against a public servant or a non-public servant, as already indicated, is a sine qua non for exercising powers under sub-section (3) of Section 4 of PC Act. In the instant case, since no PC offence has been committed by any of the non-public servants and no charges have been framed against the public servant, while he was alive, the Special Judge had no occasion to try any case against any of them under the PC Act, since no charge has been framed prior to the death of the public servant. The jurisdiction fact, as already discussed above, does not exist so far as this appeal is concerned, so as to exercise jurisdiction by the Special Judge to deal with non-PC offences."

Learned counsel submitted that in aforesaid paragraph it was observed that no charge was framed against the public servant while he was alive, and the Special Judge had no occasion to try any case against any of the non-public servant under PC Act.

Learned counsel therefore submits that there is no infirmity in the order passed by the Special Court forwarding the papers to the Court of Chief Metropolitan Magistrate to deal with the case in accordance with law.

6. I have thoughtfully considered the submissions advanced by the learned advocate appointed as *Amicus Curiae* and the learned counsel for the respondents. It would be necessary to analyse certain factual aspect in determining the issue involved in the reference. The FIR was registered by CBI ACB and after completing the investigation, accused were chargesheeted. Accused No.1 Dilip Rao Saheb Kamble was a public servant. The other accused were non-public servant. The proceedings were pending before the Special Court, CBI for Greater Bombay. During the pendency of the said proceedings accused No.1 had expired and the case against him stood abated by order dated 11.07.2002. The trial court against the accused No.2 was separated as he had absconded. The charge was framed against the accused Nos. 3 to 6 as Respondents on 24.06.2010.

7. The accused Nos. 3 to 6 were non-public servant and the public servant died before framing of charge. The learned Special

Judge Shri A.M. Kshtriya recorded the evidence of P.W.No.1 to 14 and the evidence of P.W.No.15 to 17 was recorded by another Judge Shri J.T.Udpat. Thereafter the case was listed before the Court of learned Judge Shri S.G.Deshpande who recorded the evidence of P.W.No.18 on 18.04.2013 and also recorded the statement of accused under Section 313 on 17.07.2013. The case was finally argued before the Special Judge and same was kept for judgment.

8. The case appeared before the learned Special Judge Shri S.G.Deshpande on 31.07.2013 for judgment when the Court had passed the following order:-

> ***<u>"The Operative Part of Order read as follows :</u>***
>
> *While the judgment was being dictated it is revealed that except the accused No.1 no other public servant is involved in this case. He is dead long ago. The defence Councel should have brought this fact to the notice of the Court but for the reasons best known to them they kept quite till yesterday when for the first time Mr. Vani asked propriety of the case being tried here. The prosecutor who is master of the case was duty bound to bring to the notice of the Court that this case should not be tried by this Court, I am unable to understand why he did not make a submission to that effect. Today he admits that he knew that the accused No.1 is dead and there is no other public servant in this case. That is most disappointing and I am at a loss of words do describe his action. Inspite of the above this Court cannot proceed with delivery of the Judgment in this case. The offences*

are triable by Metropolitan Magistrate. Therefore, the Record and Proceeding be sent to the Chief Metropolitan Magistrate, Mumbai for due assignment of the case for its logical end. The accused are informed of the above and they are directed to make enquiry from the Court of CMM, Mumbai regarding the case on 30/08/2013. For statistical purposes, this case be taken off the balance sheet of this Court as disposed otherwise."

9. The case of the prosecution is that Shri Dilip Rao Saheb Kamble (Accused No.1) Postman Koper Khairane Post Office, Navi Mumbai while functioning as such during October, 1999 abused his official position in as much as that he was entrusted to deliver the article containing 4500 shares of M/s Globle Tele Systems Limited by Postal Assistant of that office vide delivery sheet dated 18.10.1999 to the said Company, but he dishonestly handed over the same article to accused No.2 for wrongful gain for himself and others. Accused No.2 handed over the said shares to accused No.3 who handed over the same to accused No.4. In pursuance of criminal conspiracy with accused No.6, accused No.4 prepared 35 bogus share transfer deeds by forging signatures and used the same for transferring 3500 shares. Accused No.4 in criminal conspiracy with accused no.6 also opened bogus Demat account in the name of one Parul Shah. Accused No.5 was working as a share manger with M/s Globe Tele system who acted in criminal

conspiracy with accused no.4 by using bogus and forged share transfer deeds transfer to any his own name from M/s Globe Tele System Limited 3500 shares and sold the shares in the market. The said act on the part of accused Nos.1 to 6 constitute offences punishable under Section 120(b) read with Sections 420, 409, 411, 467, 471 of Indian Penal Code and Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988.

10. The charge was framed on 24.06.2010 which reads as follows :

"IN THE COURT OF SPECIAL JUDGE FOR GREATER BOMBAY
(Under The Prevention of Corruption Act, 1988)

SPECIAL CASE NO. 47 OF 2000

CBI/ACB, Mumbai .. Complainant
V/s
1. Dilip Rao Saheb Kamble (dead)
2. Kundan G. Dandawate (absconding)
3. Santosh Hirachand Jain
4. Jitendra Jamandas Doshi
5. Susheel Vettath
6. Smt. Sheela Suryavanshi .. Accused

<u>C H A R G E</u>

I, S.P. HAYATNAGARKAR, The Special Judge for Gr. Mumbai hereby charge you.

3. Santosh Hirachand Jain
4. Jitendra Jamandas Doshi
5. Susheel Vettath
6. Smt. Sheela Suryavanshi

as follows :-

***FIRSTLY**:- That you accused no.3 Santosh H. Jain entered into criminal conspiracy with deceased accused no.1 D.R. Kamble and absconding accused no.2 Kundan G. Dandavate in October 1999 received 4500 shares of M/s Global Tee-Systems Ltd., from accused No.2 Kundan Dandavate which were wrongly delivered by D.R.Kamble i.e accused no.1 to accused no.2 Kundan G. Dandavate. Pursuant to the said criminal conspiracy, the said shares were handed over to you accused No.4 Jitendra J. Doshi by knowing fully that the said shares were not his property and the shares had been acquired by criminal breach of trust.*

That you accused No.4 Jitendra J. Doshi in pursuance to said conspiracy with you accused No.5 Sushil Vettath and accused no.6 Smt. Sheela Suryavanshi prepared 35 bogus shares transfer deeds by forging the signature of Shri Parul Shah as a transferee and authorized signatory of Malpani as a transferor and used the said bogus transfer deeds for transferring the shares and also opened bogus DEMAT account in the name of Parul Shah in M/s Karvy Consultant and got transferred 3500 shares by using forged shares transfer deeds @ Rs.983/- per share and siphon the sum of Rs.34,40,500/-, and you thereby committed offence punishable U/s.120-B, 420, 409, 411, 467, 471 of IPC and U/s. 13(1)(d) of Prevention of Corruption Act, 1988 and within my cognizance.

***SECONDLY:** That you accused no.4 Jitendra J. Doshi in pursuance of criminal conspiracy along with accused no.6 Smt. Sheela Suryavanshi prepared 35 bogus share transfer deeds by forging the signature of Shri Parul Shah* *as transferee and authorized signatory of Malpani as a transferor and opened a bogus DEMAT account in the name of Shri Parul Shah under client I.D. No.0690182 in M/s. Karvy Consultant Ltd., depositing participant for demanding the said shares. You accused No.4 Shri Jitendra J. Doshi and accused no.6 Smt. Sheela Suryavanshi committed an offence punishable U/s. 420, 467, 471 of IPC and within my cognizance.*

THIRDLY: *You accused no.4 Jitendra Doshi in pursuance of criminal conspiracy with accused no.5 Sushil Vettath who was working as Share Manager in share department with M/s Global Tele-Systems Ltd., got transferred 3500 shares by using bogus and forged share transfer deeds. You accused no.4 Jitendra Doshi from M/s Global Tele-System Ltd., and subsequently sold 3500 DEMAT shares in the market and siphon the proceeds and committed the offence punishable U/s.420 of IPC and within my cognizance.*

And I hereby direct that you be tried by me on the said charges.

Dated this 24th day of August, 2010.

Sd/-
(S.P.HAYATNAGARKAR)
Special Judge (For CBI), Gr. Bombay.

The contents of the charge is read over and explained to the accused in vernacular

Dated: 24.08.2010 Sd/-
(S.P.HAYATNAGARKAR)
Special Judge (For CBI), Gr. Bombay."

The aforesaid charge framed against the accused Nos. 3 to 6 can be summarised as follows:

Firstly; under Section 120(b), 420, 409, 411, 467, 471 of Indian Penal Code and under Section 13(1)(d) of Prevention of Corruption Act, 1988.

Secondly; under Sections 420, 467, 471 of Indian Penal Code.

Thirdly; under Section 420 of Indian Penal Code.

11. Thus, it can be seen that the charge was framed jointly for the offences under Penal Code as well as Prevention of Corruption Act.

12. Section 3 deals with the power to appoint Special Judges which is as follows:-

> "***3. Power to appoint special Judges***.- *(1) The Central Government or the State Government may, by notification in the Official Gazette, appoint as many special Judges as may be necessary for such area or areas or for such case or group of cases as may be specified in the notification to try the following offences, namely :-*
>
> *(a) any offence punishable under this Act; and*
>
> *(b) any conspiracy to commit or any attempt to commit or any abetment of any of the offences specified in clause (a).*
>
> *(2) A person shall not be qualified for appointment as a special Judge under this Act unless he is or has been a*

Sessions Judge or an Additional Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure, 1973 (2 of 1974)".

13. Section 4 relates to Cases triable by special Judges which read thus Prevention of Corruption Act, 1988.

> *"4.* ***Cases triable by special Judges.-*** *(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), or in any other law for the time being in force, the offences specified in sub-section (1) of section 3 shall be tried by special Judges only.*
>
> *(2) Every offence specified in sub-section (1) of section 3 shall be tried by the special Judge for the area within which it was committed, or, as the case may be, by the special Judge appointed for the case, or, where there are more special Judges than one for such area, by such one of them as may be specified in this behalf by the Central Government.*
>
> *(3) When trying any case, a special Judge may also try any offence, other than an offence specified in section 3, with which the accused may, under the Code of Criminal Procedure, 1973 (2 of 1974), be charged at the same trial.*
>
> *(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), a special Judge shall, as far as practicable, hold the trial of an offence on day-to-day basis."*

14. Thus, Special Judge is empowered to try any offence punishable under Section 3(1)(a) of Prevention of Corruption Act,

1988. The Special Judge is also empowered to try under Section 3(1)(b) any conspiracy to commit or any attempt to commit or any abetment of any offences specified in clause (a). The offences specified in clause (a) of Section 3(1) of the PC Act are specified in Chapter III of PC Act, such as offences under sections 7, 8, 9, 10, 11, 12 and 13. Section 3(1) would include offence punishable under PC Act, conspiracy to commit offence under PC Act, attempt to commit offence under PC Act and abetment of any offence under PC Act. As per Section 4(3) of PC Act, when trying any case the Special Judge may also try any offence other than an offence specified in Section 3 of PC Act. In the present case though the charge was framed post death of accused No.1. The non-public servant were tried for the offences under the Indian Penal Code as well as Prevention of Corruption Act i.e under Section 13(1)(d) of Prevention of Corruption Act. They were charged for conspiring to commit offences under Sections 420, 409, 411 467, 471 of Indian Penal Code and Section 13(1)(d) of Prevention of Corruption Act. In pursuance to that 18 witnesses were examined and the trial was concluded and the judgment was to be delivered. The Hon'ble Supreme Court in the case of *Jitendra Singh* (Supra) in paragraph 28 and 29 as follows:-

> *"28. Thus, the scheme of PC Act makes it quite clear that even a private person who is involved in an offence mentioned in Section 3(1) of the PC Act, is required to be tried only by a Special Judge, and by no other Court. Moreover, it is not necessary that in every offence under the PC Act, a public servant must necessarily be an accused. In other words, the existence of a public servant for facing the trial before the Special Court is not a must and even in his absence, private persons can be tried for PC as well as non-PC offences, depending upon the facts of the case.*
>
> *29. We, therefore, make it clear that it is not the law that only along with the junction of a public servant in array of parties, the Special Judge can proceed against private persons who have committed offences punishable under the PC Act."*

It is further observed that in the said case the charge against the public servant was not framed while he was alive and the Special Judge had no occasion to try any case against any of them under the Prevention of Corruption Act since the charge was not framed prior to the death of public servant. The said observations were made while dealing with appeal preferred against the order of this Court in the case of Sham Bhatia (supra). The said observation cannot be read in isolation. On minutely reading paragraph 45, it is apparent that the Hon'ble Supreme Court has considered the factual aspect involved in the case of Sham Bhatia (supra) which was set aside by the Supreme Court. Observation in Paragraph 45 indicates that chargesheet was filed against the accused for the offences under the Penal Code and under the Prevention of Corruption Act. The charge against the sole public servant under PC act could not be framed since he died before framing of charge. It would be pertinent to observe that Special Judge also could not frame any charge against non-public servant. In the light of the said fact, the Supreme Court observed that as indicated in Sub-section 3 of Section 4, the Special Judge can try non PC offences only when trying any case relating to PC offence. The most relevant factual aspect which was considered by the Supreme Court from the case of Sham Bhatia is that in the said case no PC offence was committed by any of the non-public servant so as to fall under Section 3(1) of the PC Act. The charge firstly framed in the present case is a joint charge under Section 120 B, other penal provisions and Section 13(1)(d) of PC Act. It is further observed in the said decision that trying of any case under PC act against a public servant or non-public servant is a *sine qua non* for exercising power under section 3 of Section 4 of PC Act and since no PC offence was committed by any of the non-public servant and no charge were framed against the public servant while he was alive, the Special Judge had no occasion to try any case against any of the accused under the PC Act, since no charge was framed prior to the death of public servant. It is, therefore, very clear that decision in the case of Sham Bhatia which was set aside by the Supreme Court, the charge was not framed against the non-public servant. The charge under the provisions of PC Act was not alleged against the non-public servant and considering the fact that the trial was at the stage when even charge was not framed, the court did not find any infirmity in the order of the Special Judge in referring the case to the Court of Metropolitan Magistrate. Every case depends upon facts of each case. Hence, in the light of facts of this case and when the trial was concluded the order of Special Judge was unwarranted and is contrary to law.

15. The charge is also framed against the non-public servant for the offences under the Indian Penal Code as well as under Prevention of Corruption Act. The evidence of 18 witnesses were recorded and the matter was pending for judgment. In the case before the Supreme Court, the charge was not framed either against the public servant or non-public servant. There was no charge under the Prevention of Corruption Act against the non-public servant and therefore the case could have been tried by the Court of Metropolitan Magistrate. The issue which was under

consideration in the case of Sham Bhatia was that upon death of public servant the case shall proceed with the same special Court since once the Court is vested with the jurisdiction the said Court cannot be divested of it. The reasons, the observations of Hon'ble Supreme Court in relations to the said decisions are applicable in that case and not present case. In the recent decision in the case of ***State of Tamil Nadu Vs. Nirmala Etc. 2018 ALL MR (Cri) 440 (SC)*** pointed by Ms. Gonsalves. The Supreme Court has observed that death of main accused does not result in abatement of trial. In that case chargesheet was filed against public servant and non-public servant under provisions of P.C. Act and Section 109 of I.P.C. The main accused public servant died during pendency of revision application before High Court challenging order of discharge of accused. The High Court dismissed revision petition on the ground that the death of main accused has resulted in abatement of trial and nothing remains for consideration. In these circumstances, the aforesaid observations were made. The order of High Court was set aside. However, the issue with regard to jurisdiction of special Court under Section 4(3) of P.C. Act was kept open. Reference was also made to the decision in the case of Jitendra Kumar Singh (supra). However, it was observed that having considered decisions of Supreme Court, the death of main accused does not result in abatement of trial.

16. For the reasons stated above, the reference is answered in the affirmative. The special Judge shall proceed with the case in accordance with law. The Additional Chief Metropolitan Magistrate shall return the record of the case to the Special Court. The assistance rendered by learned counsel Ms. Rebecca Gonsalves who was appointed as *Amicus Curiae* deserves appreciation. She had attended the proceeding time and again and ably assisted the Court in deciding the reference. The reference stands disposed of.

(PRAKASH D. NAIK, J.)