

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 3030 OF 2018

Smt. Prathana Tarunkumar Brahmabhatt & Ors ... Petitioners

Vs.

Central Bureau of Investigation & Anr. ... Respondents

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Mr. Subhash Jha a/w Mr. Harekrishna Mishra i/by Law Global Advocates for the Petitioners.

Ms. Ameeta Kuttikrishnan for the Respondent-CBI.

Mr. Y.M. Nakhwa, APP for the Respondent-State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 26th JULY, 2018.

P.C.

1. The petitioners herein are prosecuted for the proceedings which are pending before the Special Court vide CBI Special Case No.35 of 2012 for the offences punishable under Section 120 B of Indian Penal Code read with Section 420, 467, 468, 471 of Indian Penal Code and Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988.

2. The co-accused in this very case had preferred Writ Petition No. 3413 of 2014 and 3414 of 2014. The said petitions were challenging the proceedings wherein the present petitioners are also impleaded as accused were heard by the Division Bench of this Court on 14th October, 2014 wherein it was

directed the trial court not to proceed till the next date. It is submitted that the said interim order has been extended from time to time and it is in force till today.

3. The grievance of the applicant is that in pursuant to the interim order dated 14th October, 2014, the trial had not proceed against any accused before the trial Court. However, all of a sudden in June 2018, the trial Court had insisted for the presence of all accused before the trial Court and even the warrants were issued against them which were subsequently cancelled. It is submitted that the petitioners herein and other accused are directed to appear before the trial Court on 27th July, 2018 at 2.45 pm for framing of charges. The petitioners had preferred an application before the trial Court vide Exh.187 at the instance of accused No. 7, 11, 12, 13 and 14 and prayed for adjournment on the ground that matter is stayed in Writ Petition No. 3413 of 2014 and 3414 of 2014. The said application was opposed by Special Public Prosecutor on the ground that accused No.7, 12 and 13 are not parties to the said petitions and the petitions are filed by accused No.11 and 13. The said application was rejected by the trial Court by order dated 8th June, 2018. Hence, petitioners have preferred the petition before this Court. While rejecting the said

application, it was observed by the Court that the matter is pending since long time for framing of charge. Accused Nos. 7, 12 and 14 have not filed Writ Petitions. Writ Petition is filed by Accused No. 11 and 13 only. Hence, it cannot be said that High Court had stayed the matter against the accused. The interpretation put-forth by counsel for accused is not acceptable. Matter is adjourned only in regard to accused No.11 and 13.

4. Mr. Zha learned counsel appearing for the applicants submits that High Court while hearing the petitions preferred by the co-accused had directed that the trial not to proceed till the next date which order has been extended from time to time. It is submitted that once the High Court had directed that the trial shall not proceed, it was not permissible for the trial Court to proceed with the matter. It is submitted that the Court while granting interim order did not restrict it qua the petitioners therein. Reliance is placed on the decision of Hon'ble Supreme Court in Spencer & Company Ltd. and another Vs. Vishwadarshan Distributors Pvt. Ltd. and others reported in 1995(1) SCC 259. Relying upon the observations made in the said decision, it is submitted that the orders of the Higher Court are required to be strictly followed by the subordinate Court.

6. Learned counsel for the respondent-CBI submitted that the petition was preferred only by the accused who are before the Court and the trial Court was directed not to proceed with the trial which interim order is to be granted only in favour of the persons who are petitioners before the High Court. It is submitted that these petitioners had never moved any proceeding before the High Court challenging the trial court proceedings and seeking stay of the proceedings. It is therefore submitted that no infirmity can be found with the order passed by the trial Court. Learned counsel further submitted that the order which is sought to be interpreted is passed by the Division Bench. It is not open to this Court to interpret said order. The petitioners can at the most approach Division Bench for seeking any clarifications.

10. Considering the fact that the order was passed by the Division Bench on 14th October, 2014 granting interim relief in the petition preferred by the co-accused, I find substance in the submissions advanced by the learned counsel for the respondent. The decision in the case of *Spencer & Company Ltd. and another Vs. Vishwadarshan Distributors Pvt. Ltd. and others* (supra) relied by the learned counsel for the petitioner in relation to the order passed by the Supreme Court permitting parties to approach the

High Court for an early disposal of proceedings pending before the High Court by keeping the proceedings before the the Supreme Court pending. However, High Court passed order that no case made out to give precedence to appeals over large number of pending appeals in that Court. In these circumstances the Apex Court made certain observations.

7. In the circumstances, it would be appropriate for the petitioner to move before the Division Bench for seeking appropriate clarifications, if they desire to do so and it is not for this Court to interpret the order passed by the Division Bench. In the result, the petition deserves to be dismissed. Hence, I pass the following order.

ORDER

- (i) The petition is dismissed.
- (ii) With a view to seek appropriate clarification before the Division Bench of this High Court, the petitioners are exempted from appearing before the trial Court tomorrow i.e. 27th July, 2018.

Sachidanand
Kuttan Nair

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by Sachidanand
Kuttan Nair
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(PRAKASH D. NAIK, J.)