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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.11 OF 2018
(For Intervention)
IN
CRIMINAL PIL (STAMP) NO.27 OF 2017**

Reliance Industries Ltd.

.....Intervenor

In the matter between:

Ketan Tirodkar

..... Petitioner.

V/s

Enforcement Directorate & Ors.

..... Respondents.

Mr. Harish Salve, Senior Advocate with Mr. Amit Desai, Senior Advocate, Mr. Birendra Saraf, Mr. Raghav Sankar, Mr. Ankit Lohia, Mr. Gopal Shenoy, Mr. Pawan Mali, Mr. Ketan Dave, Mr. Rishit Badiani, Ms. Swati Jain i/b A.S. Dayal and Associates for the Intervenor/Applicant in APPI/11/2018.

Mrs. Aparna D. Vhatkar, Advocate for the Petitioner in CRPILST/27/2017.

Mr. H.S. Venegaonkar, Advocate for Respondent No.1 – E.D.

Ms. Mohinee Chaugule holding for Mr. Suresh Kumar, Advocate for Respondent No.2.

Mr. Sandesh Patil, Public Prosecutor for Respondent No.3 – C.B.I.

Mrs. P.P. Shinde, APP, present.

**CORAM: B. R. GAVAI &
SMT. BHARATI H. DANGRE, JJ.**

DATE: 5th OCTOBER, 2018

P.C.:-

1] By way of present Criminal Application, the Intervenor has made two-fold prayers. The first prayer is for permission to intervene in the Criminal Public Interest Litigation (Stamp) No. 27 of 2017 and for hearing the Intervenor before passing the final order in Criminal Public Interest Litigation (Stamp) No.27 of 2017. The second prayer made in the Application is for recalling the ex-parte Orders dated 20th April, 2018, 29th June, 2018 and 24th August, 2018.

2] We have heard Mr. Harish Salve, learned Senior Counsel appearing on behalf of the Intervenor and Ms. Aparna Vhatkar, learned Counsel appearing on behalf of the original Petitioner.

3] The Intervenor is basically aggrieved by the order dated 20th April, 2018 vide which, this Court directed the Enforcement Directorate and CBI to apply its mind to the representation made by the Petitioner and further to take a decision as to whether it intends to proceed on the basis of the said complaint if a prima facie case is made out.

4] Mr. Salve, learned Senior Counsel appearing on behalf of the Intervenor i.e. Reliance Industries Ltd., submits that, though, at a first blush, directions issued by this Court appear to be innocuous, if the said directions are read alongwith the averments made in the memo of the Petition, the authorities may get an impression that this Court had prima facie found substance in the averments made in the Petition and as such, directed entertaining of the complaint of the Petitioner. He submits that there is a distinction between consideration of the representation for investigation simplicitor and the investigation as per the directions by this Court, to investigate into a particular matter on the basis of the averments made in the Petition, making serious allegations against certain group of companies. He further submits that the averments made in the Petition are with regard to merger of various Companies. He submits that the averments made in the Petition itself would reveal that mergers have taken place after respective High Courts having territorial jurisdiction have granted its approval. He further submits that representation which is annexed to the Petition pertains to the allegation against one MLA. However, the allegations in the Petition are mainly with regard

to Mr. Mukesh Ambani and Reliance Group of Companies.

5] Mr. Salve further submits that the major allegations which have been made in the Petition have already been gone into by the Hon'ble Supreme Court in the case of *Centre for Public Interest Litigation vs. Union of India and Others*¹ and after finding no substance in the contentions made by the Petitioners therein, the Hon'ble Supreme Court has rejected the Writ Petition. Mr. Salve therefore submits that this Court was misled by the Petitioner and as such, it is necessary that the Intervenor be permitted to intervene in the main Petition and the Orders passed by this Court directing the authorities to take a decision on the representation be recalled.

6] We have perused the order passed by us on 20th April, 2018. Para 3 of the said order reads as under:-

“3 At this stage, the petitioner in person states that he would make an appropriate representation grievance before the Central Bureau of Investigation by giving

¹ (2016) 6 SCC 408

all the details of the shell companies to whom he has referred to in the petition. Upon such representation being made to the Enforcement Directorate, the respondent no.3 would apply its mind to the facts stated in the complaint/representation and would take a decision as to whether it intends to proceed on the basis of the said complaint if a prima facie case is made out. In such a contingency, the respondent no.3 is directed to proceed in accordance with law. However, if it is of the opinion that there is no violation of any provisions of law as alleged by the petitioner in the petition, the CBI would communicate its decision to the petitioner in person.”

It could thus be seen that that this Court has issued directions, which prima facie cannot be said to affect rights of any of the parties. The Court has directed Enforcement Directorate and CBI to apply its mind to the facts stated in the representation of the Petitioner. It has been directed that, in the event the authorities find prima facie substance in the complaint, it shall proceed further in accordance with law. It

has been further directed that if the authorities are of the opinion that there is no violation of any provisions of law, as alleged by the Petitioner in the Petition, CBI would communicate its decision to the Petitioner in person.

7] It is to be noted that, on the basis of the submissions made by the Petitioner that he was only seeking an inquiry in general into his complaint and not against any particular individual or particular group, this Court issued the said directions.

8] Today, Mr. Salve, learned Senior Counsel for the Intervenor, has taken us in detail through the averments made in the Petition. The averments made in the Petition would reveal that majority of the allegations are directed against Mr. Mukesh Ambani and Reliance Group of Companies and allied Companies. It could thus be seen that the Petition is directed basically against Mr. Mukesh Ambani and Reliance Group of Companies. If the Petitioner is seeking directions not in rem but against a particular person or a particular group controlled by such person, it was necessary for the Petitioner to have impleaded Mr. Mukesh Ambani and Reliance Group of Companies as

party respondents. We find that though this Court did not issue directions with regard to entertaining the complaint against a particular individual or a group, if the directions so issued are read alongwith the averments made in the Petition, possibility of authorities gathering an impression that directions issued by this Court are with regard to investigation in the matter of a particular person and a particular group, cannot be ruled out.

9] We find that, as a matter of fact, if the Petitioner intended an inquiry into the affairs of a particular individual and a group controlled by him, then, unless such a person or a group was impleaded as party-respondent, Petition itself would not have been tenable under Article 226 of the Constitution of India.

10] We therefore find substance in the contentions raised on behalf of the Intervenor that the Orders passed by this Court dated 20th April, 2018, 29th June, 2018 and 24th August, 2018 could be used against the Intervenor and since the said order has been passed without hearing the Intervenor, the same needs to be recalled. We find that since all the averments made in the Petition are against the

Intervenor and Mr. Mukesh Ambani, it is just and necessary in the interest of justice that the present Intervenor is heard before passing any orders in the Criminal Public Interest Litigation (Stamp) No.27 of 2017.

11] In that view of the matter, we find that the Application deserves to be allowed.

12] Application is therefore allowed in terms of prayer clauses (a) and (b).

(SMT. BHARATI H. DANGRE, J.)

(B. R. GAVAI, J.)