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

CRIMINAL WRIT PETITION NO.4183 OF 2017

Stuart Edgar Banghart

...Petitioner

Versus

The State of Maharashtra

...Respondent

Mr.Satish Maneshinde, i/b Ms.Anandini Fernandes, for the Petitioner.

Mrs.P.P.Shinde, A.P.P for the Respondent-State.

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.***

DATE : 17th JULY, 2018

P.C. :

1. The above Writ Petition has been filed for quashing of the proceedings being Criminal Case No.2195/PS/2017, pending on the file of the learned Additional Chief Metropolitan Magistrate, 22nd Court, Andheri, Mumbai. The said case has arisen out of the Special L.A.C. No.35 of 2017 registered with the Sahar Police Station, Mumbai, under Section 6 of the Indian Wireless Telegraph Act, 1933 read with Section 20 of the Indian Telegraph Act, 1885. The said FIR was on account of the recovery of the Iridium Satellite Mobile Phone from the baggage of the Petitioner during the security check whilst he was boarding an Indigo Flight between

Mumbai and Kathmandu.

2. The learned counsel for the Petitioner draws our attention to the order dated 5th July, 2018, passed by the learned Additional Chief Metropolitan Magistrate, 22nd Court, Andheri, Mumbai, by which order the learned Metropolitan Magistrate has accepted the plea of guilty filed by the Applicant therein and has deemed it appropriate to impose the punishment by way of payment of fine, which is reflected in the said order. The reason why the said mode of punishment was taken recourse to can be found in the said order wherein the learned Metropolitan Magistrate has observed that the accused being from a foreign country there is no chance for appearing for trial. The allegation in the said case is identical to the allegation in the instant FIR namely recovery of the Iridium Satellite Mobile Phone, which is banned in the Country.

3. Instead of we considering the above Petition for quashment of the FIR, having regard to the statutory provisions which are available under the Code of Criminal Procedure, we deem it appropriate to relegate the Petitioner to the remedy available under the Code of Criminal

Procedure. We on the basis of the statement made by the learned counsel for the Petitioner, issue the following directions:-

ORDER

- i) The Petitioner would file a fresh application pleading guilty through his Advocate/Counsel within one week from date. The filing of the application by the Petitioner himself would be dispensed with;
- ii) The learned Metropolitan Magistrate would consider the application of the Petitioner on the touchstone of the order dated 5th July, 2018, which has been passed by him in C.C. No.1930/PS/2018, as the facts *prima facie* are identical;
- iii) If such an application is filed within two weeks from date, the same to be heard and decided by the learned Additional Chief Metropolitan Magistrate, 22nd Court, Andheri, Mumbai, within four weeks thereafter.

4. With the directions as aforesaid, the Writ Petition is disposed of.

(REVATI MOHITE DERE, J.)

(R. M. SAVANT, J.)