IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1628 OF 2017
IN
CRIMINAL APPEAL NO.633 OF 2015

CHHAYA A. PURWAR)...APPLICANT

V/s.

THE SUPERINTENDENT OF POLICE)
A.C.B., C.B.I., MUMBAI AND ANR.)...RESPONDENTS

Mr.Ravi Gurnani a/w. Ms.Deepali Prabhu-Khanolkar, Advocate for the Applicant.

Ms.Ameeta Kuttikrishnan, Advocate for the Respondent / CBI.

Ms.Anamika Malhotra, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 20th MARCH 2018

P.C. :

1 This is an application for return of movable assets in the form of four (4) ICICI Tax Free Bonds, one (1) Government of India Relief Bond having estimated value of Rs.40,000/- and Rs.2,00,000/- respectively, as on the date of the investment, and two (2) Share Certificates of HPCL.

2 Heard the learned counsel appearing for the applicant/accused no.2. He drew my attention to Clause (6) of the Operative Order passed by the learned Special Judge for the CBI in Sessions Case No.56 of 2005 and submitted that these movable assets, which are in the form of securities, need to be returned to the present applicant/accused no.2, as they are not forming the part of the ill-gotten assets and the learned trial court had already directed for return of these securities to the present applicant/accused no.2.

3 The learned Advocate appearing for the prosecuting agency i.e. CBI has opposed the application by submitting that these securities may have ultimate bearing on the disposal of the appeal, and therefore, those may not be released in favour of the applicant/accused no.2.

4 I have carefully considered the rival submissions and also perused the impugned judgment and order passed by the

learned Special Judge for the CBI in Sessions Case no.56 of 2005, whereby, he has convicted the present applicant/accused no.2 of offences punishable under Sections 13(1)(e) read with 13(2) of the Prevention of Corruption Act, 1988. The assets found to be disproportionate to known source of income of the present applicant/accused no.2 were directed to be confiscated to the State in exercise of powers under Section 452 of the Code of Criminal Procedure read with Section 16 of the Prevention of Corruption Act, 1988. However, the securities mentioned in this application are directed to be released/returned in favour of the accused persons from whom those are seized vide Clause No.(6) of the operative portion of the order dated 8th May 2015.

5 As the learned Advocate for the prosecuting agency i.e. the CBI has opposed this application, an option was given to her to deposit the total value of these securities in the Registry of this court, so as to enable this court to keep that amount in Fixed deposit. However, the learned Advocate appearing for the prosecuting agency i.e. the CBI has expressed the inability of the

prosecuting agency to deposit this amount, in order to enable the court to balance the equities.

6 Considering the fact that the movable assets sought to be released are already directed to be returned to the applicant/accused no.2 by the learned trial court, as they are not forming the part of assets exceeding known sources of income of the present applicant/accused no.2, the application deserves to be allowed, and therefore, the order :

ORDER

i) The four (4) ICICI Tax Free Bonds, one (1) Government of India Relief Bond and two (2) Share Certificates of HPCL be returned to the present applicant/accused no.2 on furnishing photostat copies thereof on the record, in order to enable the applicant/accused no.2 to realize the maturity value of those securities.

ii) The application is disposed of accordingly.

(A. M. BADAR, J.)