

Anand

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

**CRIMINAL APPLICATION NO. 548 OF 2017
IN
WRIT PETITION NO. 3818 OF 2016**

Dr. Piyush T. Mehta .Applicant

Vs.

The State of Maharashtra & anr. .Respondents

Mr. Piyush Mehta, Applicant-in-person present

Mr. Omprakash Jha a/w Mr. R. Shekhar i/b. The Law Point, Advocate,
for the Respondent No. 2

CORAM : REVATI MOHITE DERE, J.

DATE : 19.01.2018

P.C.

. Heard learned counsel for the parties.

2. Learned counsel for the Respondent No. 2 has tendered an
Affidavit-in-reply. Same is taken on record.

3. By this Application, the Applicant who appears in person
has sought the following prayer:-

“ A) This Hon'ble Court may kindly direct Ld.
Sessions Judge presiding in respect of SEBI
Spl. Case No. 184 of 2014 to take necessary
steps to secure presence of all accused
pursuant to order dated 14th December and 15th

December, 2016 passed by this Hon. Court in Criminal W. P. No. 3818 of 2016.”

4. Mr. Mehta on the earlier date had submitted that the trial was going to proceed against him and another accused No. 12 and not the other accused and that the trial was going to be separated and that only he and accused No. 12 were going to be tried. He also submitted that neither the SEBI nor the Court were taking any steps to secure the presence of the other accused, despite the Order dated 14.12.2016 passed by this Court (Coram : Mrs. Mridula Bhatkar, J.). In view thereof, this Court issued notice to the SEBI and stayed the proceedings.

5. Mr. Jha, learned counsel for the Respondent No. 2 – SEBI states that all the accused except accused Nos. 3, 4 & 7 are appearing before the SEBI Sessions Court. He submitted that all the other accused except accused Nos. 3, 4 & 7 have appeared before the SEBI Sessions Court, pursuant to the NBW issued by the learned Sessions Judge which was subsequently cancelled on imposing strict conditions. He further submitted that as far as accused Nos. 3, 4 & 7 are concerned, till date they are not traceable and that there are standing NBW orders which have been issued as against them. He further submitted that if the trial

commences, it will be against all the accused except accused Nos. 3, 4 & 7 and that the statement made by the Applicant to this Court, was misleading and incorrect. He further submitted that the Applicant's discharge Application is pending before SEBI Sessions Court and that pursuant to the stay granted by this Court vide Order dated 05.01.2018 passed in the aforesaid Cri. Appln. , the same could not be heard.

6. Perused the papers. The Applicant had filed the aforesaid stay Application and had made a grievance that no steps have been taken by SEBI to prosecute the other accused and that the Respondent No. 2 - SEBI was not taking any steps to secure their presence. A perusal of the Affidavit-in-reply filed by the Respondent No. 2 – SEBI shows that NBWs were issued as against all the accused who were not appearing before the SEBI Sessions Court and the said NBWs were subsequently cancelled by the learned SEBI Sessions Court, after imposing strict conditions on the said persons. It appears that all the accused are appearing before the SEBI Sessions Court except accused Nos. 3, 4 & 7. Learned counsel for the Respondent No. 2 – SEBI stated that there are standing NBW orders which have been issued against accused Nos. 3, 4 & 7 and that appropriate steps will be taken by SEBI to secure their presence, including proclamation. Be that as it may, it is

always open for the Court to separate the trial and proceed with the trial against other accused, who are before the SEBI Sessions Court (except accused Nos. 3, 4 & 7). The present Application is filed by the Applicant, as he was under the impression that the case was going to proceed only qua him and accused No. 12 and not others. The Applicant tenders his apology for making an incorrect statement. Apology accepted. Accordingly, nothing survives for consideration in the Application.

7. Accordingly, the Application is dismissed. Ad-interim stay granted stands vacated.

8. **W. P. No. 3818 of 2016** to be listed as per CMIS.

(REVATI MOHITE DERE, J.)