

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICITON

CRIMINAL APPLICATION NO. 459 OF 2019
IN
CRIMINAL APPLICATION NO. 3069 OF 2000

A. C. Narayanan and Another. ..Applicants.
Versus
State of Maharashtra & Another. ..Respondents.

Mr. Mihir Gheewala and Ishan Jani for the Applicants.
Ms. S. D. Shinde, APP for the Respondent-State.
Mr. S. A. Jabbar I/b Tanvir Shaikh for Respondent No. 2.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.
Date : **April 15, 2019.**

P. C. :

1. The present application is preferred to stay the proceedings of C.C.No. 889/P/1999 pending before the Additional Metropolitan Magistrate, 9th Court, Bandra, Mumbai till the final disposal of Criminal Application No.3070 of 2000.

2. On 20th September 2000, Criminal Application No.3069 of 2000 was placed before the learned Single Judge of this Court, when after hearing learned counsel for the Applicant as well as the learned counsel for Respondent No.2 and learned APP for the Respondent-State, learned Single Judge admitted the said application and also granted interim relief in terms of prayer clause (c), which reads thus :

"(c) this Hon'ble Court be pleased to pass an interim order of staying the proceeding in Criminal Case No.

350/P/2000 pending before the 9th Additional Chief Metropolitan Magistrate's Court at Bandra, Mumbai on admission of this Application and until the final hearing and disposal of this Application."

3. Thereafter on 28th January 2019, Criminal Application No.3069 of 2000 was placed before the Division Bench of this Court for final hearing. That day, the Applicant's advocate was not present. However, advocate for Respondent No.2 and learned APP were present. Statement was made by the learned counsel for Respondent No.2 that there is no interim relief operating. Accepting the statement of counsel, Court directed the trial Court to commence trial of the subject criminal case. Nevertheless, Criminal Application No. 3069 of 2000 was kept pending. The Applicant has now rushed to this Court by way of the instant application for the reliefs stated hereinabove.

4. Learned counsel for the Applicant contends that interim relief was granted by this Court on 20th September 2000 after hearing both sides in Criminal Application No.3069 of 2000 and it continued for the period of 18 years. However, on the statement of learned counsel for Respondent No.2, this Court directed the trial Court to commence the trial. The learned counsel for Respondent No.2 placed reliance on the decision of the Apex Court in Asian Resurfacing of Road Agency Pvt. Ltd v. Central Bureau of Investigation [AIR 2018 SC 2039] and submitted that stay granted by learned Single Judge of this

Court in the year 2000 has automatically come to an end after the period of six months from the date of judgment in Asian Resurfacing (supra).

5. The fact remains that when the order dated 28th January 2019 was passed in Criminal Application No.3069 of 2000, Advocate for the Applicant was absent. Therefore, there was no occasion for the Applicant to make out a case for continuation of interim relief. The Division Bench of this Court did not enter upon merits of the case. Now, after hearing both sides we find that if the stay granted in the year 2000 is vacated, that will make Criminal Application No. 3069 of 2000 infructuous. We find that rule was granted by learned Single Judge on the stay application after hearing both sides and having satisfied that there is *prima facie* case in favour of the Applicant.

6. In the facts and circumstances, we are of the opinion that case for continuation of interim relief is made. We also propose to hear in near future the main application, namely, Crim. Application No. 3069 of 2000. In that view of the matter, present application is disposed of by passing following order :

:- ORDER :-

[1] The order dated 28th January 2019 passed in Criminal Application No. 3069 of 2000 is revoked.

[2] The interim relief granted on 20th September 2000 in Criminal Application No. 3069 of 2000 shall remain in operation **till next date.**

[3] Registry is directed to place Criminal Application No. 3069 of 2000 on final hearing board on 13th June 2019 at 3.00 p.m.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]