

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 518 OF 2019
IN
CRIMINAL APPEAL NO. 699 OF 2018**

Lajpatrai Manilal Vaghela & Anr. ...Applicants
Versus
The State of Maharashtra & Anr. ...Respondents

Mr. Pawan Mali for the Applicant

Mr. P. H. Gaikwad, A.P.P for the Respondent No.1-State

Mr. H. S. Venegavkar for the Respondent No.2-CBI

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 9th APRIL 2019

P.C. :

1 By this application, the applicants seek stay of clauses (5) and (6) in the operative part of the judgment and order dated 26th April 2018 passed by the learned Special Judge, Diu, in Special Case No. 1 of 2004, pending the hearing and final disposal of the Criminal Appeal No. 699 of 2018. The said clauses (5) and (6) read thus :

“[5] The disproportionate assets of the accused persons be confiscated and credited to Government after appeal period is over.

[6] Muddemal property amount of Rs. 2,55,000/- be credited to the Government after appeal period is over.”

2 Perused the papers. The applicant No. 1 was convicted for the offence punishable under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act and was sentenced to undergo RI for 2 years and to pay fine of Rs. 10,000/-, in default, to suffer RI for 6 months and applicant No. 2 was convicted for the offence punishable under Section 109 of the Indian Penal Code and was sentenced to undergo RI for 2 years and to pay fine of Rs. 10,000/-, in default, to suffer RI for 6 months.

3 Being aggrieved by the said judgment and order of conviction and sentence, the applicants have filed appeal being Criminal Appeal No. 699/2018. This Court (Coram : A. M. Badar, J.), vide order dated 12th June 2018 admitted the said appeal and enlarged the applicants on bail vide order dated 24th September 2018 passed on Criminal Application no. 858/2018.

4 It is not in dispute that if clauses (5) and (6) are not stayed, irreparable damage would be caused to the applicants, in the event, the applicants/appellants succeed in the said appeal.

5 Considering the aforesaid, the application is allowed in terms of prayer clause (a).

6 It is made clear that the applicants shall not create any third party interest in respect of the assets and muddemal property mentioned in clauses (5) and (6), till the final disposal of the appeal.

7 Application is disposed of on the above terms.

REVATI MOHITE DERE, J.