

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2394 OF 2018

Union of India	..	Petitioners
Vs		
Yogesh D. Mehta & Anr.	..	Respondents
...		

Ms. Shubhada Khot for the Petitioners.

Mr. S.R. Moray for Respondent Nos.1 and 2.

Mr. Ajay Patil, A.P.P. for the State.

CORAM: SMT. BHARATI DANGRE, J.

DATED : 24TH SEPTEMBER, 2019.

P.C:-

1. The present Writ Petition is filed by the Union of India through the competent authority under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 ("SAFEMA") being aggrieved by the order passed by the Appellate Tribunal on 05/03/2018.

2. The facts narrated in the Petition disclose that a Show Cause Notice came to be issued against the Respondents under Section 6(1) of the SAFEMA thereby listing 32 properties at Annexure-1. The competent authority after hearing all the parties concerned, by

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a reasoned order on 22/10/2007 declared forfeiture of all the properties reflected in the Show Cause Notice. An application was preferred to the Appellate Tribunal, thereby seeking release of certain forfeited properties and Affidavits came to be filed giving the details of the gold jewellery in regard to Annexure-1 wherein it is deposed that the same were gifted to the Appellant by the deponents therein. On considering the said Affidavits, the Tribunal dealt with 28 items of gold/silver/diamond presently lying with the Enforcement Directorate, Mumbai and recorded a finding that as far as the jewellery items are concerned they are in the nature of stridhan and since it is established that it has been acquired as gifts during the marriage of the Appellant and moreover, the value of the said 28 jewellery items is only Rs.3.4 lakhs, the Tribunal released the said 28 jewellery items from forfeiture. It is this order which is assailed by the Union of India in this Writ Petition.

3. I have perused the said order passed by the Tribunal in relation to the forfeiture of property. The Tribunal has listed the 28 items and before arriving at a conclusion that it is stridhan, it has considered various documents besides the fact that the value of the said 28 jewellery items is only Rs.3.4 lakhs. Since the amount involved being only Rs.3.4 lakhs and a meagre amount in comparison to the value of other forfeited property and the same being proved as a stridhan, the Tribunal was not beyond its power

in releasing the said items from the forfeited properties under the provisions of Section 2(2)(b) of the SAFEMA. In such circumstances, there exists no legal infirmity in the order passed by the Appellate Tribunal, the writ petition deserves to be dismissed and is accordingly dismissed.

4. Needless to state that on a formal application being presented to the Authorities, the said items be released forthwith.

(SMT. BHARATI DANGRE, J.)