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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.823 OF 2019

Central Bureau of Investigation] ..Appellant.

v.

The State of Maharashtra & Ors.] ..Respondents.

Mr.Pradeep Gharat, SPP for CBI/Appellant.
Mrs.S.V.Sonawane, APP for the State.

**CORAM : INDRAJIT MAHANTY &
 A.M. BADAR, JJ.**

DATE : 19th July, 2019.

P.C.

1] An order below Exhibit 54 in MCOC Special Case No.4/2002 passed on 14th May, 2019 by the learned Special Judge, imposing cost of Rs.3,000/- on the prosecuting agency i.e. CBI and making it payable to the Government, is imposed in the instant Appeal. Therefore, no notice is required to be issued to Respondent Nos.2 and 3 who are the accused facing the trial.

2] Admit. Heard finally by consent of all parties.

3] Learned SPP appearing for the CBI submits that Respondent No.2- Jagannath Balkaran Jaiswal @ Deshmukh @

Jaggu/original Accused No.1 jumped the bail and Respondent No.3-Rajendra Sadashiv Nikalje @ Chhota Rajan @ Nana @ Seth@ Sir /original accused No.5 was absconding for quite a long period, in this view of the matter, learned Special Judge was not justified in imposing cost on the prosecution for filing supplementary charge-sheet.

5] We have also heard learned APP for State. After considering the submissions so made and on perusal of the order below Exhibit 54 passed in MCOC Special Case No.4/2002, we are of the considered opinion that the learned Special Judge ought not to have imposed cost on the prosecution and making it payable to the Government, because it cannot be said that the prosecution has protracted the trial of the case. The accused persons were absconding for quite a long period and further investigation was going on. During the inter-agnum the prosecution has examined some of the witnesses and then filed supplementary charge-sheet putting on record additional material against the accused persons. Hence, the order of imposing cost is not sustainable. Hence, the order :

ORDER

1] Criminal Appeal No.823 of 2019 is allowed.

2] The impugned order dated 14th May, 2019 passed below Exhibit 54 in MCOC Special Case No.4/2002, so far as it

relates to imposing cost of Rs.3000/- on the prosecution which was made payable to the Government, is quashed and set aside.

3] Accordingly, Criminal Appeal No.823 of 2019 stands disposed off.

[A.M. BADAR, J]

[INDRAJIT MAHANTY, J]