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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 1322 OF 2017
IN
CRIMINAL APPEAL No. 986 OF 2017

The Dy. Director,
Directorate of Enforcement
Vs.
Indian Performing Rights Society Ltd. & Ors. ... Applicant
(Orig. Appellant)
... Respondents

Mr. Anil C. Singh, ASG, a/w Ms. Manisha Jagtap, for the
Applicant / Appellant.

Mr. Ravi Kadam, Sr. Counsel a/w Venkatesh Dhond, Sr. Counsel,
Sandeep Marne, Sanjay Chaddha & Jay Bharadwaj, for the
Respondent.

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

DATE : APRIL 2, 2019

PC :

1. The present criminal application came to be filed by the
Dy. Director of Enforcement alongwith the criminal appeal, seeking
a direction to stay to the effect, operation, execution and
implementation of the impugned judgment and order dated 22nd
June, 2017 passed by the learned Appellate Tribunal in an appeal
filed by the Indian Performing Rights Society Ltd. (for short “IPR”)

under S. 26 of the Prevention of Money Laundering Act, 2002 against the order dated 23rd March, 2016 passed by the Adjudicating Authority in the Original Complaint No. 532 of 2015. The aforesaid appeal came to be disposed of by the Appellate Tribunal by an order 22.6.2017. The relevant portion of the said order reads as under:

“66. Accordingly, the impugned order dated 23.3.2016 passed by the Adjudicating Authority in confirmation of the PAO No. 20 of 2015 dated 20.10.2015 passed in O.C. No. 532 of 2015 being not sustainable is liable to be set aside as the same was passed contrary to facts and against the law. We may clarify here that during the course of the hearing, the learned counsel for the appellant has confirmed to us to pay the Royalty to the unpaid Artist without any condition as per law. Under these circumstances, we are of the view that unpaid artists will also be entitled to claim the interest on the amount of Royalty.”

2. The learned Additional Solicitor General appearing for the Appellant herein submitted that based on complaint received by the Applicant-appellant, present crime was registered and in the course of investigation, necessary orders of attachment were passed. With the directions issued by the Appellate Authority, impugned in the present appeal, the orders of attachment stood

vacated as a consequence of which the appeal has been filed and the chief interest expressed by the learned ASG was to the effect of protecting interest of the members of the Respondent-Society, and their interest viz. relating to the unpaid claims and dues of individuals against the Respondent-Society. In the course of hearing of this matter, the Respondent-Society has provided to the Appellant with all necessary details of its members as well as the various amounts that remained to be paid, and paid out of other receipts in the course of pendency of the present proceedings. In other words, what is asserted by the learned ASG is that, this Court may pass orders protecting interest of the members of the said Society while considering the prayer made in the present criminal application.

3. The learned Senior Counsel appearing for the Respondents submitted that it has already provided the necessary details of the members and their outstanding met, as well as brought to the notice of the Court even during continuation of the attachment order that the Society has been remitting the same to its members from its other collections, and further submits that

unless the order of attachment is vacated, and the order passed by the Appellate Tribunal is enforced and made operative, the benefits of the members of Society would be at stake. The learned Senior Counsel appearing on behalf of the Respondent-Society also submits that it has challenged continuation of proceedings before this Court in Criminal Writ Petition No. 5083 of 2017 and in connected criminal applications arising therefrom. This Court by an order dated 27th February, 2018 has granted stay to all further proceedings qua the Petitioner therein. The learned Senior Counsel also submits that the Respondent-Society is willing to submit quarterly financial report to the Investigating Officer, indicating the details of the income as well as expenditure met by way of payment to its members. The attachment, which is now released in terms of the directions of the Appellate Tribunal, shall stand sustained. It is also made clear that the aforesaid undertaking shall remain in force until the Respondent-Society abide by the orders that will be passed in Criminal Writ Petition No. 5083 of 2017.

4. In view of the aforesaid statements and submissions

recorded hereinabove, we, consequently, reject the prayer of the Applicant-appellant made in this criminal application. The criminal application is accordingly disposed of.

Sd/-
[A. M. BADAR, J.]

Vinayak Halemath

Sd/-
[INDRAJIT MAHANTY, J.]