

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1229 OF 2019

Jitendra Ramesh Jain

] Applicant

Versus

State of Maharashtra

] Respondent

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Mr. Dilip H. Shukla, for the Applicant.

Mr. S.V. Gavand, A.P.P for the Respondent - State.

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CORAM : REVATI MOHITE DERE, J.

DATE : 18th OCTOBER, 2019.

P.C. :

Heard learned Counsel for the parties.

2. By this application, the applicant seeks the following prayers;

- (a) That this Hon'ble Court may be pleased to "QUASH" & "SET-ASIDE" the order dated 02/03/2019 passed by the learned Sessions Judge the Misc. Application No.1679 of 2018;

(b) That this Hon'ble Court may be pleased to allow the application bearing No.1679/2018 filed before the Hon'ble Session Court in Misc. Application No.1090/2017 thereby the Crime No.84/2017 (as wrongly recorded) may be replaced with Crime No.12/2016 in Misc. Application No.1090/2017;

3. Perused the papers. It is not in dispute that the applicant was arrested in connection with two C.R.'s i.e C.R. No.12 of 2016 and C.R. No.84 of 2016, both registered with the Economic Offences Wing, Mumbai. It is also not in dispute that the applicant filed Bail Application No.93 of 2017 in C.R. No.12 of 2016, which was allowed by the learned Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai on 19th April, 2017. Similarly, the applicant was enlarged on bail in C.R. No.84 of 2016 by the learned Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai vide order dated 19th April, 2017 passed in Bail Application No.92 of 2017. It is also not in dispute that the applicant filed a Miscellaneous Application bearing No.1090 of 2017 in Bail Application No.93 of 2017 for modification of the bail condition (in C.R. No.12 of 2016). The said application was allowed by the Sessions Judge vide order dated 2nd August, 2017. It is pertinent to note that although the

application for modification was filed in B.A. No.93 of 2017 in C.R. No.12 of 2016, the learned Additional Sessions Judge passed the order in C.R. No.84 of 2016. In lieu of the said typographical error, the applicant again filed an application i.e Application No.1679 of 2018 in Misc. Application No.1090 of 2017 before the learned Additional Sessions Judge for correction of the said mistake, however, the learned Sessions Judge rejected the said application vide order dated 2nd March, 2019 or 5th March, 2019.

4. I have perused all the applications and the orders. It clearly appears that a typographical error was made by the learned Sessions Judge while passing the order on the modification application bearing No.1090 of 2017. The learned Judge ought to have seen that the said Miscellaneous Application No.1090 of 2017 was filed by the applicant in B.A. No.93 of 2017 in C.R. No.12 of 2016. The learned Judge ought to have checked the records before rejecting the applicant's Miscellaneous Application bearing No.1679 of 2018. It is clearly evident that the learned Judge had mentioned the C.R. No. as "C.R. No.84 of 2016", though the applicant had clearly mentioned in his application 'C.R. No. was 12 of 2016'. Hence, the impugned order dated 2nd or 5th March, 2019 is quashed and set aside and the Misc. Application No.1679 of 2018 in Misc. Application No.1090 of 2017 is allowed.

5. The learned Judge has also made another mistake in the impugned order. The learned Judge has mentioned the date of dictation “2nd March, 2019” whereas on the first page of the impugned order, it is stated as “5th March, 2019”.

6. The application is allowed and disposed of in the aforesaid terms.

7. All the parties to act upon the authenticated copy of this order.

[REVATI MOHITE DERE, J.]