IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.958 OF 2018

Union Of India ... **Applicant**
Versus
Amit Chaturvedi & Anr. ... **Respondents**

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Ms.Ameeta Kuttikrishnan, Advocate for the Applicant.

Mr.Rohan Mahadik with Mr.Sunil Lahane i/b. The Juris Partners, Advocate for the Respondent No.1.

Mr.R.P.Pethe, the Additional Public Prosecutor for the Respondent/ State.

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CORAM : A.M.BADAR J.

DATED : 10th JANUARY 2020.

P.C. :

1 By this application, the prosecuting agency i.e. Central Bureau of Investigation is challenging the Order dated 20/04/2018 passed by the learned Additional Sessions Judge, Greater Mumbai in Criminal Revision Application Nos.1054, 1131, 1132, 1133 and 1134 of 2017 thereby quashing and setting aside the Order passed by the learned Additional Chief Metropolitan Magistrate, 3rd Court, Esplanade, Mumbai on the application for discharge moved by the respondent/accused No.13 from offences punishable under Sections 420, 467, 468 and 471 read with Section 120B of the Indian Penal Code.

2 Heard the learned Counsel appearing for the applicant. She had taken me through the impugned Order and argued that the respondent/accused No.13 being statutory Auditor of accused Company must be knowing about the happenings in the Company. She further argued that the Daraius Fraser, Chartered Accountant has spoken about the shabby functioning of the accused Company and, therefore, the learned Additional Sessions Judge erred in discharging respondent/accused No.13 Amit Chaturvedi, Statutory Auditor. The learned Counsel for the applicant/CBI has farely admitted that apart from statements of three witnesses, which were considered by the learned Additional Sessions Judge as well as the Special Investigative Audit Report of N. Vishwanathan, FCA and the fact that the statutory Auditor has not physically examined the stock of the material, there is no other material against respondent/accused no.13 for connecting him the crime in question.

3 The learned Counsel appearing for respondent/ accused No.13 supported the impugned Order.

4 I have considered the submissions so advanced and also perused the material placed on record. Statements of Daraius Fraser, Chartered Accountant and Partner of M/s.Kalyanniwalla and Mestri, CA, statement of Neville Tantra and statement of Neville Battiwala are sought to be relied for connecting the

respondent/ accused No.13 with the crime in question. It is in statement of Daraius Fraser, Chartered Accountant that the accused Company was not providing financial data on time and, therefore, M/s.Kalyanniwalla and Mestri CA decided to disassociates with the accused Company as Statutory Auditor. Another witness Neville Tantra had spoken about two Statutory Auditors of the Company and has stated that on the basis of advice of Lalit Dangi and Rajan Damani, Amar Thacker used to manipulate the necessary entries in the books of account. Neville Battiwalla has raised suspicion against the respondent/accused No.13 in respect of offence alleged against him. Nothing is pointed out from the Special Investigating Audit Report of N.Vishwanathan, FCA, to incorporate the respondent/accused No.13 in the crime in question. The Audit Report given by the applicant mentions that the Auditor has not physically examined the stock. The report states that physical verification of the inventories done by the Management are reasonable and adequate in relation to the size of the Company and nature of its business. The Audit Report states that the information and explanation given by the Management is forming the basis of the Audit Report.

5 On the basis of this material, the learned Additional Sessions Judge, while exercising his revisional jurisdiction was pleased to discharge the respondent/accused No.13 from the offences alleged against him.

6 No infirmity can be found in the impugned Order. The same cannot be said to be perverse, illegal or amounting to abuse of process of law. In the result, the application fails an the same is, therefore, dismissed.

(A.M.BADAR, J.)