

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NOS. 524 OF 2015
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1. Reliance Industries Limited
& 6 Ors. ...Applicants
Vs.

1. Shailesh P. Mehta
& Anr. ... Respondents

Mr.Amit Desai, Senior Advocate a/w. Mr. Gopal Shenoy, Mr. Ganesh Bhujbal, Mr. Gaurav Thakur i/b A.S. Dayal and Associates for applicant.

Mr.Ranjeet M. Pawar i/b Apoorv Singh for respondent No.1.

Ms.Anamika Malhotra, APP for respondent No.2-State.

CORAM : N. J. JAMADAR, J.
DATE : 29th APRIL, 2022

P.C.:

1. These applications are preferred to quash and set aside the orders passed by the learned Additional Chief Metropolitan Magistrate/Metropolitan Magistrate, Mumbai of issuance of process against the applicants under section 163(5) read with section 301(5) and section 629 of the Companies Act, 1956 ('the Companies Act') and summoning the applicants/accused in the

complaints being No.CC/2243/SS/2013, (Criminal Application No.524 of 2015), No.CC/2244/SS/2013, (Criminal Application No.525 of 2015), No.CC/2245/SS/2013, (Criminal Application No.526 of 2015), and No.CC/2246/SS/2013, (Criminal Application No.527 of 2015).

2. The applicant No.1 is a company incorporated under the Companies Act. The applicant Nos. 2 to 6 are its directors. The applicant No.7 is a company secretary of applicant No.1. The respondent No.1-original complainant was a shareholder of the applicant No.1-Company.

3. The respondent No.1-complainant had sought the copies of certain statutory registers and documents, required to be maintained by a company under the provisions of the Companies Act, including section 301. The applicant No.1 claimed to have furnished the requisite information. In application No. 524 of 2014 (taken as a representative case), the respondent No.1 alleged that the application for furnishing the copies of the statutory registers and documents, which the applicant No.1-company was statutorily enjoined to furnish, was made on 24th December 2012. It was deemed to have been received by the applicant No.1-Company on the following day. The applicant No.1 was under an

obligation to furnish the requisite information within 10 days of the deemed date of receipt of the requisitions. However, the information and documents were furnished after a delay of about 11 days. Hence, the applicants were guilty of offences punishable under sections 163(5) read with section 301(5) and 629 of the Companies Act.

4. The learned Metropolitan Magistrate, 47th Court was persuaded to issue process against the applicants under section 163(5) read with section 301(5) and 629 of the Companies Act. By a subsequent order dated 6th May 2015, summons was directed to be issued against all the applicants.

5. The applicants invoked the inherent jurisdiction of this Court assailing the issuance of process and summoning the applicants, by raising multi-fold grounds. This Court granted interim relief.

6. In the meanwhile, the respondent No.1-complainant passed away on 7th April 2020. The matters appeared before the learned Magistrate. However, no order has been yet passed. On 5th December 2021, this Court was informed that the respondent No.1-complainant had passed away. At the instructions of Mr. Apoorv Singh, the learned advocate for the deceased respondent

No.1-complainant, the matter came to be adjourned as the learned Advocate sought time to take instructions.

7. Today, Mr.Ranjeet M. Pawar holding for Mr.Apoorv Singh, the learned counsel for respondent No.1 appeared before the Court and submitted that, to their knowledge, there is no legal representative of the respondent No.1-complainant.

8. In the aforesaid view of the matter, Mr. Amit Desai, the learned Senior Counsel for the applicants would urge that no fruitful purpose would be served in keeping the complaints alive. Having regard to the nature of the alleged infringement of the provisions of the Act, which essentially revolves around the delay of a couple of days in furnishing the information, according to Mr.Desai, at this length of time, it is very unlikely that any legal representative of the respondent No.1-complainant would further prosecute the complaint.

9. Mr.Desai invited the attention of the Court to a communication dated 8th July 2014 addressed by the Registrar of Companies to the deceased respondent No.1-complainant that the request to furnish the documents has been complied with by the applicant No.1, and though there was some delay, the same was not fatal and, therefore, no further action was proposed.

10. Mr. Desai placed reliance on a judgment of the Supreme Court in the case of *Director, Horticulture, Punjab & Ors. Vs. Jagjivan Parshad*¹, wherein the Supreme Court had upheld the order passed by the learned Magistrate under section 256 of the Code of Criminal Procedure, 1973 acquitting the accused therein, as the complainant had passed away and no steps were taken by the legal representatives of the deceased-complainant to prosecute the complaint lodged for the offence punishable under section 138 of the Negotiable Instruments act, 1881.

11. The fact that the respondent No.1-complainant has passed away was brought to the notice of the Court by the learned counsel for the deceased respondent No.1. The learned counsel further submitted that he has not been informed about the legal representatives of the deceased respondent. In any event, having regard to the nature of the accusation, which is essentially in the arena of regulatory breaches, continuation of the prosecution would serve no fruitful purpose.

12. Mr.Desai, the learned Senior counsel for the applicants submitted that the instant applications and the underlying complaints may be disposed, reserving the liberty to the legal

¹ (2008) 5 SCC 539

representative of the deceased respondent No.1, if any, to approach the Court and seek further prosecution of the proceedings initiated by respondent No.1.

13. In the circumstances, the aforesaid submission on behalf of the applicants seems just and reasonable.

14. In the backdrop of the nature of the accusation, in my considered view, continuation of the prosecution would serve no purpose.

15. Hence, the following order :

O R D E R

(i) The applications stand allowed.

(ii) The underlying complaints being complaints No.CC/2243/SS/2013, (Criminal Application No.524 of 2015), No.CC/2244/SS/2013, (Criminal Application No.525 of 2015), No.CC/2245/SS/2013, (Criminal Application No.526 of 2015), and No.CC/2246/SS/2013, (Criminal Application No.527 of 2015 stand disposed and the applicants stand acquitted.

(iii) It is, however, clarified that this order may not

operate to the prejudice of the legal representative of the deceased respondent No.1, if any, to approach the Court and seek continuation of the prosecutions.

(N.J. JAMADAR, J.)