

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO. 2358 OF 2022

Subramanian Iyer Anand

...Petitioner

Versus

Office Of The Commissioner Customs and
Ors.

...Respondents

...

Mr. S.R. Nargolkar i/b. Mr.Arjun Kadam, Advocate for the Petitioner.

Mr. Sham Walve a/w. Mr.Satyaprakash Sharma and Mr.Amit Singh,
Advocate for Respondent Nos.1 and 2.

Mr.V.B. Konde – Deshmukh, A.P.P for the Respondent No.4 – State.

Mr.Sanju Lokhande, Asst. Commissioner of Customs APSO/APSC
Commissionerate, Mumbai Customs, Zone – II.

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***CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.***

DATE : JULY 21, 2022

ORDER (Per *REVATI MOHITE DERE, J.*) :

The petitioner apprehends threat of a criminal prosecution at the behest of respondent no.1–Office of The Commissioner Customs, in light of a controversy concerning a ‘decorative sword’.

2 Perused the papers. It is a classic case where a ‘decorative sword’ turned out to be a sword of Damocles hanging over the petitioner’s head for about six years. In October 2016, the petitioner visited the United Kingdom for a vacation with his family. When the petitioner went to Edinburgh, Scotland, he visited an Artefact shop, and, as such, decided to purchase a ‘decorative sword’, an artefact. According to the petitioner, the sword so purchased, was a blunt and decorative sword. It appears that the representative of the said shop assured the petitioner, that they would courier the said ‘decorative sword’, through an overseas courier service and that the petitioner would not face any regulatory restraints, considering that the item i.e. the decorative sword, was not a sharp sword. It appears that the shopkeeper shipped the item to India. When the courier containing the decorative sword arrived in India, the petitioner was summoned to collect the same, at the Customs clearing office. Accordingly, the petitioner went to collect the same at the clearing office of the respondent no.2 – Superintendent of Customs some time in December 2016. The respondent no.2–Superintendent of Customs called upon the petitioner to produce licence for the sword, when he went to collect the said parcel which had come by courier. It is then, that the

petitioner learnt that a licence was required, as the item sent by the shopkeeper was a sharp sword and not a blunt sword, as purchased. On learning the said fact, the petitioner refused to take the sword and instead asked the officers concerned to keep the said sword with them. The petitioner admittedly never took the physical custody of the said decorative sword.

3 It appears that the respondent no.2 – Superintendent of Customs, issued a show-cause notice to the petitioner, which was replied to, by the petitioner. The respondent no.2–Superintendent of Customs thereafter, *vide* order dated 7th April, 2022, confiscated the decorative sword.

4 The petitioner received the said order dated 7th April, 2022. On perusing the said order, having regard to the contents therein, that the respondent no.2–Superintendent of Customs, would initiate action as against the petitioner, the petitioner filed the aforesaid petition, apprehending penal action by the respondent no.2 – Superintendent of Customs.

5 On the last date i.e. on 14th July, 2022, the learned counsel appearing for the respondent nos.1 and 2 sought time to take instructions and to make a statement as to whether the respondent nos.1 – Office of the Commissioner, Customs, Airport Special Cargo, Mumbai and 2 – Superintendent of Customs, Airport parcel Sorting Office, Mumbai, proposed to take any action, as against the petitioner.

6 Today, learned counsel for the respondent nos.1 – Office of the Commissioner, Customs, Airport Special Cargo, Mumbai and 2 – Superintendent of Customs, Airport parcel Sorting Office, Mumbai, has tendered a copy of the letter addressed by the Assistant Commissioner of Customs, Mumbai Customs Zone–III to him i.e. the advocate. The concerned officer is also present in Court. *Vide* the said letter it is informed that the competent authority has approved, not to launch/initiate any criminal proceedings or action against the petitioner, regarding the subject matter of the aforesaid writ petition filed by the petitioner.

7 The photocopy of the said letter dated 20th July, 2022, sent by

Mr.Sanju Lokhande, Assistant Commissioner of Customs, Mumbai Customs, Zone-III, to the petitioner, is taken on record.

8 In view of the aforesaid letter, nothing survives for further consideration in the petition, inasmuch as, the grievance/apprehension of the petitioner stands redressed. The petition is accordingly disposed of.

9 All concerned to act on the authenticated copy of this order.

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.