

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL INTERIM APPLICATION NO. 2833 OF 2022
(FOR RECALL)

IN

CRIMINAL APPEAL NO. 234 OF 2020

ALONGWITH

CRIMINAL INTERIM APPLICATION NO. 2495 OF 2022
(FOR CLARIFICATION)

IN

CRIMINAL APPEAL NO. 234 OF 2020

Manohar Maruti Majalkar

...Applicant

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. Aabad Ponda, Senior Advocate, i/b Bhomesh Bellam for the
Applicant in IA 2833/2022 & IA/2495/2022.

Ms. Mrunmai Kulkarni for the Appellant.

Mr. Ashok P. Mundargi, Senior Advocate, *Amicus Curiae*.

Mrs. M.M.Deshmukh, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.
DATE : 30th AUGUST, 2022

P.C. :

1. By these aforesaid applications, the applicant seeks recall of the order dated 15th July, 2022 and/or clarification of the said order dated 15th July, 2022.

2. Vide order dated 15th July, 2022, we had permitted the learned Counsel for the appellant to withdraw the aforesaid appeal, for the reasons mentioned in the said order. The said order reads thus;

“1 At the outset, as soon as the matter was called out, learned A.P.P submitted that trial has come to a fag end, inasmuch as, the matter is posted for recording 313 statement of the accused. The said position is not disputed by the learned counsel for the appellants. She, however, submits that the trial Court will be bound by its order dated 13th January 2020 and as such, even if submissions are advanced by the learned counsel for the appellants with respect to the issues raised in the aforesaid appeal, the learned Judge will not consider the same. She requests that the trial Court be directed to consider the issues raised in this appeal afresh, at the time of final arguments at the trial, uninfluenced by its earlier order dated 13th January 2020.

2 Learned counsel for the appellants seeks leave to withdraw the appeal, however, with a request as stated aforesaid.

3 *The order dated 13th January 2020 was an interim order passed on an application filed by the appellants. Now, after the full-fledged trial, it is always open for the parties to advance all issues/grounds i.e. with respect to Section 4 or Section 5 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, before the trial Court, at the time of final arguments. Needless to state, that the learned Judge shall decide the issues so raised, uninfluenced by its earlier order dated 13th January 2020.*

4 *We make it clear that we have not gone into the merits of the appeal and as such all contentions of the parties are kept open before the trial Court.*

5 *The appeal is disposed of accordingly.*

6 *All concerned to act on the authenticated copy of this order.”*

3. During the course of arguments, learned Counsel for the respondent/original petitioner states, that she has no objection if the order dated 15th July, 2022 passed by this Court, in the aforesaid appeal, is recalled and the aforesaid appeal is heard on merits.

4. Considering the issues involved in the aforesaid appeal, the order dated 15th July, 2022 passed by this Court in the aforesaid appeal is recalled.

5. Accordingly, interim application No. 2833 of 2022 is allowed and the order dated 15th July, 2022 passed in the aforesaid appeal is recalled. The Appeal No.234 of 2020 is restored back to its original file. The said Interim Application is accordingly disposed of.

6. In view of the order passed in the Interim Application No. 2833 of 2022, nothing survives for consideration in the Interim Application No. 2495 of 2022 and as such, the same is disposed of.

7. The aforesaid appeal to be listed under the caption 'for admission' on 15th September, 2022.

8. The appellant is at liberty to file an additional affidavit if so necessary, in the aforesaid appeal, in the Registry of this Court, on or before 12th September, 2022, with an advance copy to the learned Counsel for the respondent.

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.