

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

CRIMINAL APPLICATION NO.995 OF 2021

Nandkishore Chaturvedi

...Applicant

Versus

Directorate of Enforcement and Anr.

...Respondents

Mr. Vikram Chaudhari, Senior Advocate i/b Ms. Neha Ahuja, for the Applicant.

Mr. Anil Singh, Additional Solicitor General a/w Mr. Aditya Thakkar, Mr. Shreeram Shirsat, Mr. Pranav Thackur, Ms. Smita Thakur and Mr. Amandeep Singh Sra, for the Respondent No.1 - ED.

Mr. H. J. Dedhia, A.P.P for the Respondent No.2– State.

CORAM : REVATI MOHITE DERE, J.

DATE : 17th MARCH 2022

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks quashing and setting aside of the impugned order dated 31st May 2021, passed by the learned Special Court PMLA/16th Additional Sessions Judge, City Sessions Court, Mumbai in PMLA MA/0100672/2021, issuing notice to the applicant to appear and file reply, as despite service of notice and reply, the applicant

avoided appearing before the ED. Several other reliefs have also been sought for in the application. The principal ground on which quashing is sought is on the ground of jurisdiction of the learned Sessions Judge, to entertain the complaint/application filed by the respondent No.1 – ED.

3. Learned Additional Solicitor General, on instructions fairly states, that the Directorate of Enforcement would be withdrawing PMLA MA/0100672/2021 filed before the Sessions Court, having regard to the fact, that the said Court has no jurisdiction to entertain the same. He states that the respondent No.1 – ED would be filing an appropriate application/complaint before the appropriate Court having jurisdiction.

4. Learned Additional Solicitor General, has also tendered an additional affidavit of the respondent No.1 – ED dated 17th March 2022. The same is taken on record. In the said additional affidavit it is specifically stated that there are inadvertent typographic errors in the reply dated 17th December 2021 and that the said additional affidavit is filed solely for the purpose of rectification of the said typographic errors. The error is in para 1, last line of the reply dated 17th December 2021 wherein

the applicant is referred to as an 'accused person' instead of 'the applicant' and similar other references in the said reply dated 17th December 2021. It is further stated that in the majority of the reply, wherever, the applicant is referred to as an accused, the same is a typographic error and that the said reference to the applicant as an accused be treated as ignored. Learned Additional Solicitor General further states that as of today, the applicant is not an accused. Statement accepted.

5. In view of the aforesaid, the impugned order dated 31st May 2021, passed by the learned Special Court PMLA/ 16th Additional Sessions Judge, City Sessions Court, Mumbai in PMLA MA/0100672/2021, issuing notice to the applicant, is quashed and set aside, for want of jurisdiction. Liberty is granted to the respondent No.1 – ED to withdraw the said application being PMLA MA/0100672/2021, before initiating any fresh proceeding.

6. Needless to state, that it is always open for the respondent No.1 – ED to file an appropriate complaint before the appropriate forum, in accordance with law.

7. In view of the aforesaid statement made by the learned Additional Solicitor General, the question of considering the other prayers sought for by the applicant in this application, as of today, does not arise. Needless to also state, that it is always open for the applicant to seek the same reliefs, as sought for in this application, if the occasion, so arises, since as of today, the applicant is not an accused. All contentions of all parties are kept open.

8. It is made clear, that this application has not been heard on merits and as such all questions on merits are kept open.

9. Application is accordingly disposed of on the aforesaid terms.

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

REVATI MOHITE DERE, J.