

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Criminal Application No. 88 of 2022
in
Criminal Writ Petition No. 325 of 2022

Kanchan S/o Rupchand Mankar and another

Versus

The State of Maharashtra, through the Principal Secretary, Ministry of
Home, Mantralaya, Mumbai-32 and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms. Mrunal Barabde, APP for the respondent/State.
None for the petitioners.

CORAM : ANIL S. KILOR, J.
DATED : 20th MAY, 2022.

Today, this application for modification of order dated 19th May, 2022 is moved by the State pointing out that the learned counsel for the petitioner has suppressed the order of Hon'ble Supreme Court of India dated 29th April, 2022 passed in Writ Petition(s) (C) No.1067/2021 Dolphy Vs. State of Kerala and another wherein the Hon'ble Supreme Court of India has directed the prisoners to report back to the prisons within two weeks from the date of the order.

2. The learned Additional Public Prosecutor has pointed out that she informed to the learned counsel for the petitioner in the morning about moving of this application, today, for modification of order dated 19th May, 2022. Service affidavit in that regard has been placed on record by the learned Additional Public Prosecutor.

3. Despite intimation, none appeared for the petitioner.

4. I have perused the order passed by the Hon'ble the Supreme Court of India in the case of *Dolphy Vs. State of Kerala and another (supra)* wherein the Hon'ble the Supreme Court of India has observed thus:

“Near normalcy has returned in the country and daily activities remain unabated. Parole granted to the prisoners due to possibility of their contacting Covid-19 in prisons cannot be extended any further. They are directed to report back to the prisons within two weeks from today.”

5. Vide order dated 19th May, 2022 which is sought to be modified, no interim protection was granted to the petitioners by staying the effect and operation of the Government Resolution dated 4th May, 2022 or granting exemption to the petitioners from

surrendering within 15 days as per the Government Resolution dated 4th May, 2022.

6. Operative part of the order dated 19th May, 2022 only says that in case of failure of petitioners (i.e petitioner nos. 1 and 2) to surrender, offence under Section 224 of Indian Penal Code shall not be registered till returnable date (24th May, 2022).

7. However, in view of the observations of Hon'ble Supreme Court of India in the case of *Dolphy Vs. State of Kerala and another (supra)*, the application is allowed. The order directing not to register offence under Section 224 of Indian Penal Code against the petitioner nos. 1 and 2 till 24th May, 2022, is hereby recalled.

8. The criminal application is disposed of.

SACHINDANAND
K NAIR

Digitally signed
by
SACHINDANAND
K NAIR
Date: 2022.05.20
17:03:50 +0530

[ANIL S. KILOR, J.]