

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

CRIMINAL APPEAL NO. 667 OF 2019

Pintu Ananda Rasal ...Appellant
Versus
The State of Maharashtra & Anr. ...Respondents

Mr. Nitin Sejpal a/w. Ms. Pooja Sejpal for the Appellant.

Mr. S. S. Pednekar, APP for the State.

Mr. Nitin Gaware Patil for Respondent No. 2.

**CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.**

DATE : 9th JUNE 2023

P. C. :

1. This Appeal is arising out of a judgment and order dated 26th March 2019 passed by the learned Special Judge under the MCOC Act, 1999 for District Nashik below Exhibit 111 in MCOCA Special Case No. 02 of 2017.

2. By order dated 25th April 2023, this Court had directed the Registry to verify whether this Court has jurisdiction to hear the present appeal and file a report to that effect. Accordingly, the learned Registrar (Judicial-I) has submitted a report dated 29th April 2023.

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3. The said report indicates that; Crime No. I-19 of 017 was registered against the appellant with Parner Police Station, District Ahmednagar; thereafter, permission was sought to apply the provisions under MCOCA. The Competent Authority granted approval under Section 23(1) of the MCOCA. Accordingly, the Sections under MCOCA are applied against the appellant. Prior to the notification dated 16th March 2020, the Special Courts under the MCOCA were established only in particular districts with the power to try offences under MCOCA. Though the crime in the present appeal occurred within Ahmednagar District, the investigating agency, after completion of the investigation, presented the charge sheet before the Special Court under MCOCA at Nashik, as there was no Special Court under MCOCA at Ahmednagar.

4. The said report further indicates that by Order dated 4th February 2020, the bench at Aurangabad comprising of a learned single Judge [Coram : Vibha Kankanwadi, J.] has referred the issue regarding the maintainability of the

matters arising out of Orders passed by the Special Court established outside the judicial district under the Aurangabad Bench with reference to Chapter XXXI of the Bombay High Court Appellate Side Rules, 1960. The issue referred to the larger bench reads as under :

Issue :

“Whether the appeals, applications or writ petitions arising out of Judgment and order passed by Special Court / Criminal Court established outside the judicial districts under Aurangabad Bench (when offence or offences are committed within the territorial limits of judicial districts under Aurangabad Bench) would lie before Aurangabad Bench or they would lie before Principal Seat at Bombay or any other Bench in reference to Chapter XXXI of the Bombay High Court Appellate Side Rules, 1960.”

5. The said report of the Registrar (Judicial-I) further states that; in view of the notification dated 16th March 2020, the Courts of District Judge-I and District Judge-II in each district are designated as courts under the MCOCA to try cases filed under the said Act. Even though the offence has occurred in Ahmednagar district, the accused in the present case is on trial in Nashik District by the Special Court under the MCOCA. The

issue of jurisdiction in a case like the present one is sub-judice before the larger bench at Aurangabad. Thus, in view of the legal position in the case of *Haji Abdul Razak Yasin Patel vs Bara Imam Masjid Trust and Others*, the present appeal is maintainable before the principal seat at Bombay as the impugned order is passed by the Special Court situated at Nashik which falls within the jurisdiction of the principal seat at Bombay.

6. We have perused the papers. It appears that Criminal Bail Application No. 2666 of 2018 was filed on behalf of another co-accused – Dnyaneshwar @ Mauli Ananda Rasal, and Criminal Bail Application No. 3176 of 2018, was filed on behalf of the present Appellant – Pintu Ananda Rasal before the Principal Seat. Both the said applications were heard together, and this Court (Coram: V. G. Bisht J) by Judgment and Order dated 6th December 2021, allowed both the applications, and the co-accused – Dnyaneshwar @ Mauli Ananda Rasal and the present Appellant – Pintu Ananda Rasal were directed to be released on bail. It appears that the said applications were filed before the said Notification dated 16th March 2020; however, the same

were decided later on. From perusal of the order, it does not reflect that the said notification was brought to the notice of the Court. From perusal of the order, it does not reflect that the said notification was brought to the notice of the Court.

7. Perusal of the record shows that Criminal Bail Application No. 1529 of 2022 was filed on behalf of another co-accused – Pravin Ananda Rasal, before the Aurangabad bench. By Judgment and Order dated 22nd December 2022, this Court at the Aurangabad bench (Coram: S.G. Mehare,J.) allowed the said application, and the Applicant therein was directed to be released on bail. It appears that the said application was filed and decided after the said Notification dated 16th March 2020.

8. A perusal of the aforesaid Judgments and Orders shows that the issue regarding the maintainability of the said Applications before the Principal bench and/or before the Aurangabad bench was never raised. However, after the said notification dated 16th March 2020, Criminal Bail Application No. 1529 of 2022 was filed on behalf of another co-accused –

Pravin Ananda Rasal, before the Aurangabad bench and the same was allowed. We are informed that after the said notification dated 16th March 2020, the proceedings of MCOCA Special Case No. 2 of 2017 is transferred to the District Court at Ahmednagar and the same is pending trial.

9. Prima facie, we find that the issue referred to the larger bench by an Order dated 4th February 2020 passed by a learned Single Judge (Coram: Vibha Kankanwadi J) at Aurangabad bench will not apply in the facts of the present case, since record and proceedings of Special Case No. 2 of 2017 concerning present appeal are transferred to the District Court at Ahmednagar and is pending trial. In view of the aforesaid, we deem it appropriate to direct the registry to transfer the present Appeal before the Aurangabad Bench, for placing the same before the appropriate bench having assignment.

10. Registry to forthwith take necessary steps to transfer the record and proceedings to Aurangabad bench.

GAURI GODSE, J.

REVATI MOHITE DERE, J.