

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

CRIMINAL APPLICATION NO.1164 OF 2023

Sonali Nimish Arora

...Applicant

Versus

The State of Maharashtra & Anr

...Respondents

Ms. Sonal Parab a/w P.K. Sanghrajkar, i/b Rajeev Sawant & Associates, Advocate for Applicant.

Mr. S.H. Yadav, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 15th SEPTEMBER 2023

PC :

1. By way of this Application, the Applicant is challenging the order dated 1st September 2023 passed by the Metropolitan Magistrate 68th Court, Borivali, Mumbai in C.C. No.6800412/N/2023 whereby, the Investigating Officer was directed to handover the interim custody of the documents seized under panchanama dated 12th January 2016 to the Respondent No.3 herein Mahendra Chande who was the authorized person of Ferrani Hotels Pvt Ltd.

2. Learned Counsel for the Applicant submitted that this

order is passed pursuant to the provision of Section 457 of Cr.P.C. She submitted that she has approached this Court directly without filing Revision Application before the Sessions Court on the apprehension that the order would be treated as an interlocutory order. However, at the same time, she referred to a judgment of the Division Bench of this Court in the case of **D'damas Jewellery India Pvt. Ltd. vs. State of Maharashtra and Others** as reported in **2008 SCC OnLine Bom 1781**. I have considered this judgment. The paragraph 8 of this judgment reads thus;

“8. As regards the delivery of property to any person entitled for possession thereof, it will stand on the same footing as that of disposal of the property. In case of such delivery of property, it would be only after ascertaining the right of the person claiming to be entitled to have possession of such property. Obviously, therefore, the Court will have to decide the issue relating to the right to possess and accordingly deliver the property to the person who is entitled to possess the same. Being so, such an order deciding the issue regaining right to possess the property cannot be said to be an interlocutory order. For that purpose, such an order would be amenable to revisional jurisdiction under Section 397 of the Code.”

This judgment was passed in consideration of Section 457 of Cr.P.C. as to whether such order can be termed as an

interlocutory order. Since the order was passed after recording in the operative part that, the property was given to the person who was entitled to have its possession, therefore, as per paragraph 8 referred to hereinabove, the order would not be an interlocutory order. Hence Revision Application would be maintainable.

3. In view of this, learned Counsel for the Applicant prays for withdrawal of this Application with liberty to approach the Court of Sessions by filing Criminal Revision Application.

4. Liberty is granted. The Application is allowed to be withdrawn with such liberty. After such Revision Application is filed, it shall be decided in accordance with law as early as possible.

5. The Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)