

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

**Criminal Application No.1343 of 2022**

Patel Engineering Ld. & Ors. ... Applicant.

Vs.

State of Maharashtra & Ors. ... Respondents.

Mr Ganesh Gole a/w Aarif Ali Ali for applicants.

Mr Suresh Kumar a/w Ms Mohinee Chougule for  
Respondents No.2 and 3.

Mr HJ Dedhia, APP for State.

**Coram: R.N.Laddha, J.**

**Date : 15 September 2023.**

**P.C.:**

Heard Mr Ganesh Gole, the learned Advocate for the applicants; Mr Suresh Kumar, the learned Counsel for respondents No.2 and 3; and Mr HJ Dedhia, the learned APP for the State.

2. The challenge in this application is to the Criminal Case No.2286/SW/2018 instituted by respondent No.2 against the applicants and two others before the learned Additional Chief Metropolitan Magistrate, 38<sup>th</sup> Court, Mumbai, at Ballard Pier, under Sections 276B read with 278B of the Income Tax Act,

1961 ('the Act') and the order dated 25.01.2019 passed by the learned Magistrate for issuance of a process and summons issued on 13.06.2022.

3. It is the case of the applicants that during the financial year 2016-2017, applicant No.1 deducted taxes at source for an amount of Rs.22,30,06,977/-; however, owing to financial difficulties, there was a delay on the part of Applicant No.1 to deposit an amount of Rs.34,53,202/- with the Central Government Treasury. Consequently, notices dated 13.07.2018 under section 279(1) of the Act were issued by Respondent No.3 to the applicants, requiring the applicants to show cause as to why prosecution under Sections 276B read with 278B of the Act should not be launched against them.

4. By various correspondences, applicants No.1 and 2 informed respondent No.3 that due to financial distress, the deficit TDS amount could not be deposited. Applicant No.3 stated that at the relevant time, she was not a Director of Applicant No.1. After hearing the applicants and perusing the material on record, respondent No.3 accorded sanction to prosecute the applicants for offences punishable under Sections 276B read with 278B of the Act. Resultantly,

Criminal Case No.2286/SW/2018 came to be filed.

5. During the course of arguments, the learned Counsel for the contesting parties agreed that the applicants will file an application before respondent No.3, who will consider such application afresh on its own merits.

6. In view of the above, the application stands disposed of with liberty to the applicants to move an appropriate application before Respondent No.3. Respondent No.3 shall consider such application afresh on its own merits and, after hearing the applicants pass an appropriate order in accordance with the law. It goes without saying that if necessary, the applicants are free to seek legal redress for their grievances if the occasion so arises. It is made clear that this Court has not examined the merits of the case.

**[R.N.Laddha, J.]**