

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

CRIMINAL WRIT PETITION NO.2908 OF 2015

1. Ranjan R. Belekar
2. Reema R. Belekar
Residing at Marol, Andheri
Mumbai-400 059. ...Petitioners

Versus

1. Union of India
Through the Competent Authority
SAFEMA/NDPS, having its office
At 3rd Floor, C-Wing, Mittal Court,
Nariman Point, Mumbai-400 021.
2. State of Maharashtra ...Respondents

Mr. Girish S. Pikale, for the Petitioners.

Mr. Shreeram Shirsat, Spl.P.P a/w Mr. Shekhar Mane and Ms. Tanvi Mate, for the Respondent No.1.

Ms. P. S. Rane, A.P.P for the Respondent No.2– State.

***CORAM : REVATI MOHITE DERE &
MANJUSHA DESHPANDE, JJ.
DATE : 5th APRIL 2024***

ORAL JUDGMENT (Per Revati Mohite Dere, J.):

1. Heard learned counsel for the parties.

2. Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Mr. Shirsat, waives notice on behalf of the respondent No.1. Learned A.P.P waives notice on behalf of the respondent No.2–State.

3. By this petition, the petitioners seek quashing and setting aside of the impugned order dated 3rd February 2000 passed by the Competent Authority under Sections 7 and 19 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, ('SAFEMA') as well as the order dated 21st September 2001 passed by the Appellate Tribunal for Forfeited Property ('ATFP').

4. Perused the petition. It is not in dispute that SAFEMA proceedings were initiated by the Competent Authority, SAFEMA on the basis of the detention order issued against the petitioners. It is also not in dispute that the detention order passed by the concerned authority was quashed and set aside by the Delhi High Court vide order dated 7th February 2008 passed in Writ Petition No.442 of 1997.

It is also not in dispute that the Detaining Authority had challenged the order of the Delhi High Court in the Apex Court by filing a Criminal Appeal being Criminal Appeal No.1177 of 2009. However, the Apex Court vide order dated 11th February 2015 dismissed the SLP filed by the Union of India.

5. In view of the aforesaid, learned counsel for the petitioners submitted that the detention order having been quashed, the SAFEMA proceedings will not be maintainable and as such, it is incumbent for the SAFEMA authorities to return the property. Accordingly, the learned counsel for the petitioners has prayed for quashing and setting aside of the order dated 3rd February 2000 passed by the Competent Authority under Sections 7 and 19 of the SAFEMA as well as the order dated 21st September 2001 passed by the ATFP.

6. Mr. Shirsat, learned Special Public Prosecutor, appearing on behalf of the respondent No.1 does not dispute the fact, that the detention order quashed by the Delhi High Court has attained finality,

inasmuch as, the Apex Court has confirmed the quashing of the detention order passed by the Delhi High Court. Mr. Shirsat, also does not dispute that in view of the aforesaid, the attachment of the properties under SAFEMA, will not survive.

7. Accordingly, in view of the aforesaid and the judgments in respect of the same, the petition is allowed on the following terms and conditions:-

ORDER

- (i) The impugned order dated 3rd February 2000 passed by the Competent Authority under Sections 7 and 19 of the SAFEMA as well as the order dated 21st September 2001 passed by the ATFP, are quashed and set aside;
- (ii) The SAFEMA authorities to release the attachments and handover the monies attached by them to the petitioners, at the earliest and in any event within four weeks from today;
- (iii) The respondent-SAFEMA to handover the monies as mentioned on page 59, paragraph-(iv) of the affidavit of the Inspecting Officer, SAFEMA/NDPSA, Mumbai, alongwith accrued interest thereon to the petitioners, as per the SBI Guidelines.

8. The Petition is allowed and is accordingly disposed of.
Rule is made absolute on the aforesaid terms.

All concerned to act on the authenticated copy of this
judgment.

MANJUSHA DESHPANDE, J.

REVATI MOHITE DERE, J.