

Amberkar

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

**CRI. REVISION APPLICATION NO. 557 OF 2024
WITH
INTERIM APPLICATION NO. 4123 OF 2024
WITH
INTERIM APPLICATION NO. 4124 OF 2024**

**WITH
CRI. REVISION APPLICATION NO. 558 OF 2024
WITH
INTERIM APPLICATION NO. 4125 OF 2024
WITH
INTERIM APPLICATION NO. 4126 OF 2024**

**WITH
CRI. REVISION APPLICATION NO. 571 OF 2024
WITH
CRI. REVISION APPLICATION NO. 4371 OF 2024
WITH
CRI. REVISION APPLICATION NO. 4372 OF 2024**

Summai Shipping Pvt Ltd & Anr. .. Applicants

Versus

State of Maharashtra & Anr. .. Respondents

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- Mr. Ashutosh Dubey i/by Ms. Mamta S. Panigrahi for Applicants
 - Ms. Sangita E. Phad, APP for State

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 17, 2024

P. C.:

1. Not on board. Mentioned. Taken on board.
2. Perused the praecipes dated 08.10.2024.

3. Heard Mr. Dubey, learned Advocate for Applicants and Ms. Phad, learned APP for State.

4. Present Revision Applications take exception to twin orders dated 26.11.2022 and 02.09.2024. There are three sets of Criminal Revision Applications which have been filed. Facts are identical in all three Revision Applications. Offence for which conviction has been allowed by learned Trial Court is for non-payment of TDS amount on time for three consecutive financial years / assessment years under Section 276-B of the Income Tax Act, 1961. There were three accused. Accused No. 1 is a Company, accused Nos. 2 and 3 are husband and wife, probably directors of THE Company.

5. Mr. Dubey informs the Court that accused No. 2 expired during the interregnum and therefore proceeding against accused No. 2 has stood abated. He would submit that by judgment & order dated 26.11.2022, learned Trial Court convicted the accused for the offence punishable under Section 278-B of the Income Tax Act and sentenced them imprisonment of three months, to pay fine of Rs. 5000/- each and in default of payment of fine, accused Nos. 2 and 3 to undergo simple imprisonment for a period of 30 days. By judgment & order dated 02.09.2024, learned Additional Sessions Court confirmed the order of the Trial Court. Applicant No. 2 is presently on bail. Present Revision Applications have been filed on 01.10.2024. One of the

prayer in the Interim Application is to grant bail to Applicant No. 2 i.e. wife pending the hearing and disposal of present Applications. There is another Interim Application for suspension of sentence.

6. Mr. Dubey would submit that one of the defences taken by Applicant is that the amount of TDS was in fact subsequently paid along with penalty and interest but the same has not been considered and for non-payment of TDS, the accused have been convicted. Additionally he would submit that present Applicant No. 2 i.e. accused No. 3 is an old lady and suffering for medical ailment i.e. cancer. He seeks indulgence of the Court since there is apprehension that Applicant No. 2 shall be apprehended.

7. I have heard learned Advocates for Applicant and learned APP and also perused both the impugned judgments. It is seen that the defence of said TDS amount paid along with penalty and interest has been taken and considered but in view of dereliction on the part of Company for not paying TDS on time, the conviction and sentence has been imposed. In the present set of circumstances, accused No. 2 who is husband of accused No. 3 may be running the business of the Company and therefore that is one of the issue which would be required to be considered for convicting accused No. 3 wife were in the present set of circumstances. Be that as it may, I am satisfied that

present Revision Applications deserve indulgence so as to ensure that Revision Applications are heard by the Court in accordance with law.

8. It is stated that by judgment & order dated 02.09.2024, Applicant No. 2 was given time of four weeks from that date to surrender failing which there would be issuance of arrest warrant against her. It is also stated that Applicant No. 2 is on bail during the interregnum. Considering that Applicant No. 2 is a lady and suffering from cancer, the same bail bond is directed to be continued in the meanwhile until disposal of the present Revision Applications.

9. In so far as the suspension of sentence is concerned, considering the substantive challenged maintained in the Revision Application, judgment & order dated 02.09.2024 passed by learned Sessions Judge stands suspended until the present Revision Applications are heard and finally decided by this Court.

10. In view of the above order, Interim Application Nos. 4124/2024, 4126/2024 and 4371 of 2024 seeking suspension of judgment & order dated 02.09.2024 stand allowed and disposed as judgment & order dated 02.09.2024 passed by learned Sessions Judge stands suspended until the present Revision Applications are heard and finally decided by this Court. Further Interim Application Nos. 4123/2024, 4125/2024 and 4372/2024 seeking bail to Applicant No. 2 stands

disposed by directing continuation of bail bond until disposal of the present Revision Applications.

11. Revision Applications are adjourned to **25th November, 2024.**

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[MILIND N. JADHAV, J.]

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by RAVINDRA
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