IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.857 OF 2025
WITH
CRIMINAL APPEAL (ST) NO.17350 OF 2025
WITH
CRIMINAL APPEAL (ST) NO.17366 OF 2025

Kasim @ Talaf Irani @ Muktar Irani .. Appellant
Vs.
State of Maharashtra .. Respondent

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Mr. Nitin Sejpal a/w. Mr. Siddharth Gharat, Mr. Sahir Patel a/w. Mrs. Pooja Sejpal, Advocates for the Appellant

Mr. S. V. Gavand, Additional Public Prosecutor for the Respondent-State

CORAM : SHREE CHANDRASHEKHAR, CJ &
SHYAM C. CHANDAK, J.

DATE : 15th APRIL 2026

Per, Shree Chandrashekhar, CJ :

These criminal appeals seek to challenge the orders dated 24th June 2025 passed by the Additional Special Judge (MCOC), Thane by which the discharge applications filed by the appellant under section 11 of the Maharashtra Control of Organized Crime Act, 1999 (for short, MCOCA) have been dismissed. The applications for discharge were based on the ground that the sanction order reflects complete non-application of mind.

2. The appellant has been found involved in 45 criminal cases for committing offences under sections 302, 379, 420, 392, 394 etc. Most of the cases registered against the appellant are pending consideration before the Court concerned. He has been convicted for committing multiple offences in as many as nine cases.

3. Mr. Nitin Sejpal, the learned counsel for the appellant submits that the number of criminal cases lodged against the appellant are not the relevant consideration and the sanction order could not have been passed by the sanctioning authority on similar set of facts. It is further submitted that two of the three sanction orders have been passed for prosecution of the appellant under the provisions of the MCOCA by the same officer and that too for the crimes committed by the appellant within the same range. The learned counsel for the appellant further submits that by passing proforma sanction orders based on same set of facts, the sanctioning authority has put the appellant to *double jeopardy.* The submission put forth is that once the offence under MCOCA has been incorporated in a crime there is no need for passing another order for prosecution of the appellant under the MCOCA.

4. There is no dispute that not only the charge-sheets have been filed against the appellant in more than one criminal case lodged against him, he has already been convicted in as many as nine cases. Clause (d) of section 2(1) of the MCOCA defines a "continuing unlawful activity" to mean an activity prohibited by law for the time being in force and is a cognizable offence punishable with imprisonment of three years or more, undertaken either singly or jointly as a member of an organized crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheets have been filed before a Competent Court within the preceding period of ten years and that Court has taken cognizance of such offence. There is no doubt that the appellant has engaged himself in a continuing unlawful activity within the meaning of the said expression in clause (d) of sub section (1) of section 2 of the MCOCA. This is also beyond any dispute that there is no prohibition in law or

at least the provisions under the MCOCA do not stipulate that sanction for prosecution of a person accused of committing crime cannot be accorded for his prosecution in more than one case under the MCOCA. The Additional Special Judge (MCOC) referred to the decision in *"Bharat Shantilal Shah"* and held that, an accused who has been found indulged in continuing unlawful activity may be prosecuted under the provisions of the MCOCA in subsequent cases. In *"Zakir Abdul Mirajkar v. State of Maharashtra & Ors."* (2023) 20 SCC 408, the Hon'ble Supreme Court held as under :-

> *"88. In Govind Sakharam Ubhe v. State of Maharashtra [Govind Sakharam Ubhe v. State of Maharashtra, 2009 SCC OnLine Bom 770] , a two-Judge Bench of the Bombay High Court, speaking through Ranjana Desai, J. (as the learned judge then was) held that : (SCC OnLine Bom para 37)*
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> > *"37. … Section 2(1)(d) which defines "continuing unlawful activity" sets down a period of 10 years within which more than one charge-sheet have to be filed. … It is the membership of organised crime syndicate which makes a person liable under MCOCA. This is evident from Section 3(4) MCOCA which states that any person who is a member of an organised crime syndicate shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine, subject to a minimum of fine of Rs 5 lakhs. The charge under MCOCA ropes in a person who as a member of the organised crime syndicate commits organised crime i.e. acts of extortion by giving threats, etc. to gain economic advantage or supremacy, as a member of the crime syndicate singly or jointly. Charge is in respect of unlawful activities of the organised crime syndicate. Therefore, if within a period of preceding ten years, one charge-sheet has been filed in respect of organised crime committed by the members of a particular crime syndicate, the said charge-sheet can be taken against a member of the said crime syndicate for the purpose of application of MCOCA against him even if he is involved in one case. The organised crime committed by him will be a part of the continuing unlawful activity of the organised crime syndicate. What is important is the nexus or the link of the person with organised crime syndicate. The link with the "organised crime syndicate" is the crux of the term "continuing unlawful activity". If this link is not established, that person cannot be roped in."*

> *89. Other Courts, too, have held that persons who are alleged to be members of an organised crime syndicate need not have more than one charge-sheet filed against them in an individual capacity. Rather, charge-sheets with respect to the organised crime syndicate are sufficient to fulfil the condition in Section 2(1)(d)."*

5. In our opinion, if the argument raised on behalf of the appellant is accepted that there cannot be prosecution of an accused under the provisions of the MCOCA in more than one criminal case, the object behind the MCOCA shall be ignored. The preamble of MCOCA provides that this statute has been enacted to make special provisions for prevention and control of, and for coping with, criminal activity by organized crime syndicate or gang, and for matters connected therewith or incidental thereto. The provisions in the Code of Criminal Procedure under Chapter XVII provide a complete answer to the plea raised on behalf of the appellant that there cannot be a second charge under the MCOCA even though there are 45 cases registered against him. These provisions under the Code of Criminal Procedure provide ample insight to the legislative enactment for prosecution of an accused in more than one case under the provisions of the MCOCA.

6. For the aforementioned reasons, these appeals are dismissed.

[SHYAM C. CHANDAK, J.] **[CHIEF JUSTICE]**