

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION(CRIMINAL) NO. 398 OF 2020

MUKUND CHOUDHARY & ANR.

PETITIONER(S)

VERSUS

UNION OF INDIA

RESPONDENT(S)

O R D E R

Having heard learned counsel for the contesting parties and having perused the material placed on record, we are disinclined to continue with the proceedings in this writ petition, but would leave it open for the parties to take recourse to appropriate remedies in accordance with law while continuing with the interim order dated 17.12.2020 for a limited period.

2. For the order proposed to be passed, dilation on all the factual and background aspects does not appear necessary. Suffice it to notice that the petitioners herein have questioned the initiation/continuation of proceedings under Section 138 of the Negotiable Instruments Act, 1881 ('the Act') against them despite the fact that insolvency proceedings under the Insolvency and Bankruptcy Code, 2016 ('the Code') have been initiated against the company, CLC Industries Ltd., of which the petitioners had been standing in the capacity of Directors.

3. It appears that the petitioners chose to directly approach this Court under Article 32 of the Constitution of India in view of the fact that at the given point of time, several petitions seeking leave to appeal as also writ petitions were pending in this Court

involving similar or akin issues. This Court issued notices in this writ petition on 17.12.2020 and passed the following order:-

"Issue notice.

In the meanwhile, there shall be stay of further proceedings in C.C. No.630/2020 pending before the Additional Judge, First Class Magistrate, Ahmedabad (Rural) at Mirzapur, District Ahmedabad."

4. The said bunch of petitions ultimately came to be decided by this Court in the decision rendered on 01.03.2021 in "*P. Mohanraj vs. M/s Shah Brothers Ispat Pvt. Ltd.*", since reported as (2021) 6 SCC 258. Learned counsel for the parties seek to refer to the said decision as also the provisions of the Code in support of their respective submissions. However, we are of the view that in regard to the submissions sought to be made, the parties ought to take recourse to appropriate remedies in accordance with law in the appropriate forum. For that matter, it goes without saying that it is always open for the petitioners to question the initiation/continuation of the proceedings under Section 138 of the Act before the Trial Court or the Revisional Court or the High Court, as may be permissible and advised.

5. As the matter requires consideration on several factual aspects forming the background of initiation of proceedings under Section 138 of the Act and the impact of proceedings under the Code, the course which we have indicated hereinabove appears to be apt and proper and there appears no reason to examine the matter in the writ jurisdiction of this Court. However, when this Court had granted interim order, which has hitherto remained in operation, it

is also considered appropriate that operation of that interim order be further extended for a period of four weeks so as to grant reasonable time to the parties, particularly in taking recourse to the appropriate proceedings in accordance with law.

6. Accordingly, exercise of writ jurisdiction in this matter is declined but while leaving it open for the parties to take recourse to appropriate remedies in accordance with law. For the period of four weeks from today, interim order dated 17.12.2020 shall remain operative.

7. It is, however, made clear that all the submissions/objections shall remain open; and it would also be open for the appropriate forum where the approach is made, to take a decision in the matter as regards interim arrangement as also final relief without being influenced by any observations made herein and for that matter, without being influenced by continuation of the interim order for a period of four weeks.

8. This petition stands disposed of with the observations and liberty foregoing.

.....J.
(DINESH MAHESHWARI)

.....J.
(VIKRAM NATH)

New Delhi;
15th November, 2021

ITEM NO.11 Court 15 (Video Conferencing) (REVISED FOR APPEARANCE)
SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Criminal) No(s). 398/2020

MUKUND CHOUDHARY & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(FOR ADMISSION and I.R. and IA No.129566/2020-STAY APPLICATION
IA No. 129566/2020 - STAY APPLICATION)

Date : 15-11-2021 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE VIKRAM NATH

For Petitioner(s)

Mr. Ravindra Sadanand Chingale, AOR

For Respondent(s)

Mr. K.M. Nataraj, Ld ASG
Mr. Sharath Nambiar, Adv.
Mr. Adit Khorana, Adv.
Mr. Mohd. Akhil, Adv.
Mr. Varun Chugh, Adv.
Ms. Preeti Rani, Adv.
Mr. A.K. Sharma, Adv.

Mr. Abhay Pratap Singh, AOR

UPON hearing the counsel the Court made the following
O R D E R

This petition stands disposed of in terms of the signed order.

Pending applications stand disposed of.

(TUSHAR BISHT)
COURT MASTER (SH)

(V.M. BHATNAGAR)
BRANCH OFFICER

(Signed order is placed on the file)

ITEM NO.11 Court 15 (Video Conferencing) SECTION X

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R E C O R D O F P R O C E E D I N G S

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