

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2021
(Arising out of SLP(C) No. 10887 of 2021)

NARESH T. JAIN & ORS.

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

O R D E R

Leave granted.

This appeal takes exception to the judgment and order dated 19.06.2021 passed by the High Court of Judicature at Bombay in Writ Petition (L) No. 12492 of 2021, whereby the High Court vide impugned order permitted the adjudicating authority to proceed with the application referred to in prayer Clause (b) of the writ petition.

Heard learned counsel for the parties.

The moot question is whether the adjudicating authority can proceed in the matter when the provisional attachment has been stayed by the High Court in terms of the impugned order dated 19.06.2021.

Indisputably that adjudication process has been triggered only after the provisional attachment order has

been passed in the case of these appellants. Thus, it being the foundation for the adjudication process it must wait, until the decision of the High Court in writ petition filed by the appellants. We, therefore, modify the order passed by the High Court to this limited extent. Rest of the conditions imposed by the High Court must apply with full force and which the appellants must abide by the same during the pendency of the writ petition, without any exception.

We request the High Court to dispose of the writ petition expeditiously.

It is made clear that all contentions available to both sides on merits are left open and ought to be decided on its own merits and in accordance with law, including the question whether the provisional attachment order stood lapsed by operation of law or is kept in abeyance in terms of order dated 08.03.2021 passed by this Court in Suo Motu Writ Petition(C) No. 3 of 2020.

We are not expressing any opinion either way on that issue, which may be pursued by the parties before the High Court.

We further clarify that if the writ petition is decided against the appellants, it will be open to the

High Court to pass appropriate direction, including to consider the prayer of the Department that the time-frame for completion of adjudication process would get extended from the date of the High Court order.

The appeal is disposed of in the above terms.

Pending applications, if any, stand disposed of.

....., J.
(A.M. KHANWILKAR)

....., J.
(HRISHIKESH ROY)

....., J.
(C.T. RAVIKUMAR)

NEW DELHI;
September 03, 2021.

ITEM NO.28

Court 3 (Video Conferencing)

SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 4634/2014

(Arising out of impugned final judgment and order dated 30-04-2014 in CRLA No. 1132/2012 passed by the High Court Of Judicature At Bombay)

VIJAY MADANLAL CHOUDHARY & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

([ONLY CONNECTED MATTERS I.E. WP(CRL.)145/2020, SLP(C) NO. 10887/2021, WP(CRL.) NO. 301/2021, SLP(CRL.) NOS. 5696-5697/2021, SLP(C) NO. 12468/2021, I.A. NO. 89201/2021 IN CRIMINAL APPEAL NOS. 391-392/2018 AND WP(CRL.) NO. 259/2020 ARE TO BE LISTED BEFORE HON'BLE COURT.])

WITH

Crl.A. No. 391-392/2018 (II-C)

(IA FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 89201/2021 AND IA No. 89201/2021 - APPROPRIATE ORDERS/DIRECTIONS)

W.P.(Crl.) No. 259/2020 (X)

(FOR FOR PERMISSION TO PLACE ADDITIONAL FACTS AND GROUNDS ON IA 49133/2020 AND FOR CONDONATION OF DELAY IN FILING THE SPARE COPIES ON IA 84335/2020, FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 100793/2021, IA No. 84335/2020 - CONDONATION OF DELAY IN FILING THE SPARE COPIES, IA No. 100793/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 49133/2020 - PERMISSION TO PLACE ADDITIONAL FACTS AND GROUNDS)

W.P.(Crl.) No. 145/2020 (X)

(FOR EX-PARTE AD-INTERIM RELIEF ON IA 51384/2020, FOR APPLICATION FOR EXEMPTION FROM FILING ORIGINAL VAKALATNAMA/OTHER DOCUMENT ON IA 51385/2020, FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 52909/2020 FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 52911/2020 FOR PERMISSION TO PLACE ADDITIONAL FACTS AND GROUNDS ON IA 58549/2020, FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 58550/2020 FOR APPLICATION FOR TAGGING/DETAGGING ON IA 60275/2020 FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 60276/2020 FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 100911/2021, FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 100913/2021 IA No. 51385/2020 - APPLICATION FOR EXEMPTION FROM FILING ORIGINAL VAKALATNAMA/OTHER DOCUMENT, IA No. 60275/2020 - APPLICATION FOR TAGGING/DETAGGING, IA No. 51384/2020 - EX-PARTE AD-INTERIM RELIEF IA No. 52911/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 100913/2021 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 60276/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 58550/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 52909/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 100911/2021 - PERMISSION TO FILE

ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 58549/2020 -
 PERMISSION TO PLACE ADDITIONAL FACTS AND GROUNDS)
 SLP(C) No. 10887/2021 (IX)
 (FOR ADMISSION and I.R.)
 W.P.(Cr1.) No. 301/2021 (X)
 (FOR EX-PARTE STAY ON IA 83801/2021, FOR EXEMPTION FROM FILING O.T.
 ON IA 83803/2021, FOR PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES ON IA 91203/2021
 FOR EXEMPTION FROM FILING O.T. ON IA 91205/2021, IA No. 83801/2021
 - EX-PARTE STAY, IA No. 91205/2021 - EXEMPTION FROM FILING O.T., IA
 No. 83803/2021 - EXEMPTION FROM FILING O.T., IA No. 91203/2021 -
 PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)
 SLP(Cr1) No. 5696-5697/2021 (II-C)
 (FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA
 93550/2021, FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
 ON IA 93552/2021, FOR EXEMPTION FROM FILING O.T. ON IA 93554/2021
 FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA
 94652/2021, IA No. 93552/2021 - EXEMPTION FROM FILING C/C OF THE
 IMPUGNED JUDGMENT, IA No. 93554/2021 - EXEMPTION FROM FILING O.T.
 IA No. 94652/2021 - PERMISSION TO FILE ADDITIONAL,
 DOCUMENTS/FACTS/ANNEXURES, IA No. 93550/2021 - PERMISSION TO FILE
 ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)
 SLP(C) No. 12468/2021 (III)
 (FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA
 97592/2021 AND FOR PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES ON IA 97599/2021
 IA No. 97592/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
 JUDGMENT AND IA No. 97599/2021 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES)

Date : 03-09-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
 HON'BLE MR. JUSTICE HRISHIKESH ROY
 HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Petitioner(s)

Mr. Shyam Divan, Sr. Adv
 Mr. Massom K. Shah, Adv
 Mr. Udit Gupta, Adv
 Mr. Anup Jain, Adv.
 Mr. Sudipto Sircar, Adv.
 M/s. Udit Kishan & Associates, AOR

Mr. Mukul Rohatgi, Sr. Adv
 Mr. Mahesh Agarwal, Adv
 Mr. J. Sivanandaraaj, Adv
 Mr. Mohd. Nizam Pasha, Adv
 Mr. Anshuman Srivastava, Adv
 Ms. Ridhima Ssharma, Adv
 Mr. Ahmad Ibrahim, Adv
 Mr. Aravind Mohan Kumar, Adv

Mr. Gunika Gupta, Adv
 Mr. Sahil Reddy, Adv
 Mr. E C Agrawala, AOR

Mr. Kapil Sibal, Sr. Adv
 Mr. Puneet Jain, Adv
 Mr. Bm Mangukia, Adv
 Mr. Chetan Pandya, Adv
 Mr. Harsh Jain, Adv
 Mr. Harshit Khanduja, Adv
 Ms. Yashika Sharma, Adv
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Mr. Siddhartha Dave, Sr Adv
 Mr. Manish Desai, Adv
 Ms. Nidhi Singh, Adv
 Mr. Utsav Mukherjee, Adv
 Ms. Smriti Churiwal, Adv
 Ms. Megha Tyagi, Adv
 Ms. Deepti Babel, Adv
 Mr. Shubham Mhatre, Adv
 Mr. Pulkit Agarwal, AOR
 Mr. Sudhanshu Kaushesh, Adv

Mr. Siddharth Luthra, Sr. Adv.
 Mr. Arshdeep Singh, Adv.
 Mr. Aditya Chopra, Adv.
 Mrs. Priya Puri, AOR
 Mr. Sharad Puri, Adv
 Mr. Ranjay Dubey. Adv
 Mr. Yati Sharma, Adv

Mr. Mukul Rohatgi, Sr. Adv.
 Mr. Sidharth Luthra, Sr. Adv.
 Ms. Neeha Nagpal, Adv.
 Mr. Malak Bhatt, AOR
 Mr. Asif Ahmed, Adv.
 Mr. Bharat Monga, Adv
 Mr. Vishvendra Tomar, Adv.

Mr. Nikhil Jain, AOR

For Respondent(s)

Mr. Tushar Mehta, SG
 Mr. Aman Lekhi, ASG
 Mr. M.K. Maroria, AOR
 Mr. Zoheb Hossain Adv
 Mr. Kanu Aggarwal Adv

Mr. Tushar Mehta, SGI
 Mr. S.V. Raju, ASG
 Mr. Aman Lekhi, ASG
 Mr. Rajat Nair, Adv
 Mr. Kanu Agarwal, Adv

Mr. Zoheb Hussain, Adv
 Ms. Nisha Bagchi, Adv
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Mr. Kumar Dushyant Singh, AOR
 Mr. Rohit Sharma, Adv
 Mr. Atul Agarwal, Adv
 Mr. Rounak Nayak, Adv
 Ms. Arju Chaudhary, Adv

M/S. M. V. Kini & Associates, AOR

Mr. Balaji Srinivasan, AOR

Mr. O. P. Gaggar, AOR

Mr. M. T. George, AOR

Mr. Sachin Patil, AOR

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

I.A. No. 89201 of 2021 in CrI. A. Nos. 391-392 of 2018

Learned counsel for the applicant seeks one week's time to serve copy of the affidavit as required in terms of order dated 18.08.2021. Thereafter, two weeks' time is granted to file response.

List this application after three weeks.

We, however, clarify that, in the meantime, if the present appeal becomes ready for hearing alongwith connected cases, it be notified alongwith connected cases

before the appropriate Bench.

I.A. No. 100793 of 2021 in W.P.(Crl.) No. 259 of 2020

This application is allowed without prejudice to the rights and contentions of the parties and subject to just exception.

Amendment be carried out within one week from today.

Mr. Sidharth Luthra, learned senior counsel informs that the applicants have moved the application for bail. That application be notified before the appropriate Bench.

Liberty is granted to the applicant to apply for early date.

W.P.(Crl.) No. 145 of 2020

Mr. Sidharth Luthra, learned senior counsel submits that during the pendency of this petition, complaint has already been filed. In that case, he would not press for interim relief as prayed in I.A. No. 51384 of 2020.

He further submits that the same be disposed of by clarifying that the applicant may take recourse to such other appropriate remedy as may be permissible in law, during the pendency of the writ petition questioning the validity of the relevant provisions of the Companies Act.

Accordingly, the application (I.A. No. 51384 of 2020) is allowed to be withdrawn with liberty to the applicant(s) to pursue such other remedies, as may be permissible in law within two weeks from today.

SLP(C) No. 10887 of 2021

Leave granted.

The appeal is disposed of in terms of the signed order.

Pending applications, if any, stand disposed of.

W.P.(Cr1.) No. 301 of 2021

List this matter on 06.09.2021.

In the meantime, the petitioners to place on record memo of Special Civil Application No. 3729 of 2021 filed before the High Court through email and also serve advance copy thereof on the Standing Counsel for the Central Agency.

SLP(Cr1.) Nos. 5696-5697 of 2021

Heard learned counsel for the parties.

List these matters alongwith SLP(Cr1.) No. 4634 of 2014 and connected cases, involving the question regarding validity of Section 45 of the Prevention of Money Laundering Act, 2002.

As regards the interim relief, that stands rejected for the time being.

SLP(C) No. 12468 of 2021

We are informed that issues raised in this petition are overlapping with issues involved in SLP(Crl.) No. 7927 of 2019.

Registry to ascertain the position and ensure that all connected matters involving similar issues are placed before one Bench on the next date of hearing.

List this matter on 09.09.2021.

(DEEPAK SINGH)
COURT MASTER (SH)

(SUNIL KUMAR RAJVANSHI)
BRANCH OFFICER

[Signed order is placed on the file]