

M/S Neeharika, Infrastructure Pvt. ... vs The State Of Maharashtra on 12 October, 2020

Bench: D.Y. Chandrachud, Indu Malhotra, Indira Banerjee

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ITEM NO.27

Court 6 (Video Conferencing)

SECTION

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D I A

Petition(s) for Special Leave to Appeal (Crl.)

No(s).48

(Arising out of impugned final judgment and order dated 28-09-2020 in WPST No. 2306/2020 passed by the High Court of Judicature at Bombay)

M/S NEEHARIKA INFRASTRUCTURE PVT. LTD.

Petitioner

VERSUS

THE STATE OF MAHARASHTRA & ORS.

Respondent

(WITH I.R. and IA No.101192/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.101191/2020-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 12-10-2020 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDU MALHOTRA
HON'BLE MS. JUSTICE INDIRA BANERJEE

For Petitioner(s)

Mr. Shyam Divan, Sr. Adv.
Mr. Arunabh Chowdhury, Adv.
Mr. Vaibhav Tomar, Adv.
Mr. Abhay Jadeja, Adv.
Ms. Bamalli Chowdhury, Adv.
Mr. Varun Satiya, Adv.
Mr. Dechan W. Lachungpa, Adv.
Mrs. Pragya Baghel, AOR

For Respondent(s)

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

1 On 19 September 2019, the petitioner lodged a First Information Report which has been registered with the Economic Offences Wing as EC Crime No 82 of 2019 for alleged offences under Sections 406, 420, 465, 468, 471 and 120B of 18:22:07 IST Reason:

the Indian Penal Code 1860. Three orders were passed by the 37th Additional Sessions Judge, City Sessions Court, Mumbai on 15 October 2019 under Section 438 of the Code of Criminal Procedure 1973 granting interim protection from arrest to the second, third and fourth respondents.

2 Mr Shyam Divan, learned Senior Counsel submits that the above orders required the respondents to attend the Police Station on 17 October 2019, 19 October 2019 and 22 October 2019 and to cooperate in the investigation. Mr Divan submits that on 17 December 2019, the investigating officer in the EOW addressed communications to the Sessions Court stating that the accused were not cooperating in the investigation. Moreover, it has been submitted that the protection which was granted by the Sessions Court was extended from time to time and nearly a year thereafter, a writ petition was moved before the Bombay High Court in which a blanket order has been passed on 28 September 2020 in the following terms:

“d. In the meanwhile, no coercive measures shall be adopted against the Petitioners in respect of the FIR No. 367/2019 dated 19.09.2019, registered at Worli Police Station, Mumbai, Maharashtra (subsequently transferred to Economic Offence Wing, Unit IX, Mumbai and has been numbered as C.R. No. 82/2019).” It has been submitted that since the second, third and fourth respondents were protected by an interim stay of arrest by the Sessions Court, there was no occasion to seek a blanket direction of the High Court restraining the investigating officer from taking coercive measures and such an application is an abuse of the process. It has been urged that the High Court passed an order directing that no coercive measures would be adopted without any reasons being indicated.

3 Issue notice, returnable on 26 October 2020. Liberty to serve the Standing Counsel for the State of Maharashtra, in addition. Dasti, in addition, permitted on the second, third and fourth respondents.

1 “CrPC” 4 There shall, until the next date of listing, be an ad interim stay of the above direction contained in paragraph (d) of the impugned order of the High Court dated 28 September 2020. However, this will not affect the interim orders passed by the Sessions Court.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER