

SIDDHARTH MUKESH BHANDARI

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v.

THE STATE OF GUJARAT AND ANR.

(Criminal Appeal No. 1044 of 2022)

AUGUST 02, 2022

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[M. R. SHAH AND B. V. NAGARATHNA, JJ.]

Code of Criminal Procedure, 1973 – s.482 – Stay of investigation and/or interim relief while exercising powers u/s.482 CrPC – Private respondents-accused filed Special Criminal Applications u/Art.226 of the Constitution r/w s.482 CrPC for quashing criminal proceedings instituted by petitioner-complainant – Before further investigation, the High Court passed ad-interim order dated 10-10-2019 directing that coercive steps be not taken against private respondents-accused – SLPs against the interim order dated 10-10-2019 – Interim order 10-10-2019 stayed by Supreme Court – SLPs converted into Criminal Appeals whereupon, Supreme Court, after considering the decision in the case of M/s. Neeharika Infrastructure Pvt. Ltd., set aside the interim order 10-10-2019 – Subsequently however, the High Court admitted the special criminal applications, and granted interim relief vide impugned order dated 14-02-2022 staying further criminal proceedings and also staying further investigation – Held: Despite the earlier judgment and order passed by Supreme Court in the very criminal proceedings quashing and setting aside the earlier interim order passed by the High Court, again, the High Court granted the very same interim relief, which can be said to be in teeth of and contrary to earlier judgment and order in the case of M/s. Neeharika Infrastructure Pvt. Ltd. – Grant of stay of investigation and/or any interim relief while exercising powers u/ s.482 CrPC would be only in the rarest of rare cases – Impugned order dated 14-02-2022 passed in the Special Criminal Applications set aside – Investigating Officer to complete investigation and file appropriate report/charge sheet before the concerned Criminal Court having jurisdiction – High Court to consider the special criminal applications in accordance with law and on merits – Constitution of India, 1950 – Art.226 – Interim order.

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A Allowing the appeals, the Court

HELD:1. The High Court seriously erred in passing the impugned interim orders dated 14-2-2022, which can be said to be in the teeth of earlier judgment and order in the case of M/s. Neeharika Infrastructure Pvt. Ltd. and even in the Criminal Appeals (converted from SLPs against interim order dated 10-10-2019 of the High Court.) [Para 5][857-F]

2. The High Court has not properly appreciated the principles and the law laid down by this Court in the case of M/s. Neeharika Infrastructure Pvt. Ltd. What is emphasized by this Court in the case of M/s. Neeharika Infrastructure Pvt. Ltd. is that grant of any stay of investigation and/or any interim relief while exercising powers under Section 482 Cr.P.C. would be only in the rarest of rare cases. This Court has also emphasized the right of the Investigating Officer to investigate the criminal proceedings. [Para 6][857-G; 858-B-C]

3. Despite the earlier judgment and order passed by this Court in the very criminal proceedings quashing and setting aside the earlier interim orders dated 10-10-2019 passed by the High Court, which came to be set aside by this Court, again, the High Court has granted the very same interim relief, which can be said to be in teeth of and contrary to earlier judgment and order in the case of M/s. Neeharika Infrastructure Pvt. Ltd. [Para 7][858-D]

4. The impugned order dated 14.02.2022 passed in respective Special Criminal Applications is set aside. The Investigating Officer is directed to complete the investigation at the earliest and file appropriate report/charge sheet before the concerned Criminal Court having jurisdiction. The High Court shall consider the special criminal applications in accordance with law and on its own merits. It will be open for the respective accused – original writ petitioners to move appropriate applications for seeking anticipatory bail. [Para 8][858-F-H]

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 1044 of 2022.

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SIDDHARTH MUKESH BHANDARI v. THE STATE OF GUJARAT AND ANR. 855

From the Judgment and Order dated 14.02.2022 of the High Court of Gujarat in R/Special Criminal Application No. 9112 of 2019. A

With

Criminal Appeal Nos. 1045 and 1046 of 2022.

Harshit Tolia, P. S. Sudheer, Siddharth Ravi Kheskani, Rishi Maheshwari, Ms. Anne Mathew, Bharat Sood, Ms. Shruti Jose, Advs. for the Appellant. B

K. M. Natraj, ASG, P. S. Patwalia, Maninder Singh, Sr. Advs., Kanu Agrawal, Ms. Deepanwita Priyanka, Brijesh Limbachia, Ms. Anushree Prashit Kapadia, Ms. Harshika Verma, Diyamk Dutt Dwivedi, Ms. Aastha Khanna, Mahesh Agarwal, Ankur Saigal, Anirudh Bhatia, Ms. Ayushi Amod, Pranav Saigal, Ms. Ashita Chawala, E. C. Agrawala, Advs. for the Respondents. C

The Judgment of the Court was delivered by

M. R. SHAH, J. D

1. Feeling aggrieved and dissatisfied with the impugned interim order dated 14.02.2022 passed by the High Court of Gujarat at Ahmedabad in respective Special Criminal Application Nos. 9112 of 2019, 9111 of 2019 and 9475 of 2019 by which the High Court while admitting the special criminal applications filed under Article 226 of the Constitution read with Section 482 of the Code of Criminal Procedure (Cr.P.C.) has granted the interim relief and has stayed the further proceedings of respective criminal inquiry cases against the respondents – accused and whereby has stayed the further investigation with respect to the criminal proceedings initiated by the petitioner- complainant against the respondents – original writ petitioners before the High Court – respondents herein – original accused, the original complainant has preferred the present appeals. E F

2. At the outset, it is required to be noted that Special Criminal Application Nos. 9111 of 2019 and 9475 of 2019 were arising out of FIR being M. Case No. 2 of 2019 initiated by the appellant – original complainant. Special Criminal Application No. 9112 of 2019 before the High Court was arising out of FIR being M. Case No. 3 of 2019. The private respondents herein – original accused approached the High Court by way of Special Criminal Application Nos. 9112 of 2019, 9111 of 2019 and 9475 of 2019 to quash the criminal proceedings in exercise of powers G H

- A under Article 226 of the Constitution read with Section 482 of the Cr.P.C. The said special criminal applications were filed before the High Court on 01.10.2019. Before any further investigation was carried out by the Investigating Officer, the learned Single Judge of the High Court vide common order dated 10.10.2019 passed ex-parte ad-interim order directed that there shall not be any coercive steps taken against the original writ petitioners – accused. The common interim order dated 10.10.2019 passed in the aforesaid special criminal applications was the subject matter of special leave petitions before this Court. By order dated 09.12.2019 while issuing notice to the respondents therein, this Court stayed the interim order dated 10.10.2019.
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- C In continuation of the order dated 09.12.2019, this Court passed a further order on 17.12.2019 and observed that it shall be open for the accused – respondents to seek anticipatory bail in accordance with law, which may be considered expeditiously. Nothing is on record to show that thereafter any further proceedings were initiated by the respondents – accused seeking anticipatory bail. The special leave petitions filed before this Court against the common order dated 10.10.2019 were converted into Criminal Appeal Nos. 1657, 1658, 1659 and 1660 of 2021. By a detailed judgment and order dated 17.12.2021 and after considering the decision of this Court in the case of **M/s. Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and Ors., AIR 2021 SC 1918**,
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- E this Court quashed and set aside the interim orders dated 10.10.2019 passed in respective special criminal applications. Despite the above order passed by this Court thereafter by the impugned orders, while admitting the respective special criminal applications, the learned Single Judge of the High Court has again granted the impugned interim reliefs
- F staying further criminal proceedings and resultantly staying further investigation. Feeling aggrieved and dissatisfied by the impugned interim order passed by the High Court granting interim relief and staying further criminal proceedings and resultantly staying further investigation, the original complainant has preferred the present appeals.
- G 3. We have heard Shri Harshit Tolia, learned Advocate appearing on behalf of the petitioner – appellant – original complainant; Shri K.M. Natraj, learned ASG appearing on behalf of the respondent – State of Gujarat and Shri P.S. Patwalia and Shri Maninder Singh, learned Senior Advocates appearing on behalf of the respondents – original writ petitioners – respondents accused.
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4. Shri K.M. Natraj, learned ASG appearing on behalf of the State, has filed a Status Report on the investigation carried out by the I.O. after the order passed by this Court dated 09.12.2019 staying the earlier interim order passed by the High Court dated 10.10.2019. From the Status Report, it can be seen that the actual investigation has started only after June, 2020. Even thereafter also, the investigation can be said to be proceeding in a snail pace. It appears that at every stage, the investigation has been stalled. It can also be seen that the investigation has been stalled earlier and even thereafter pursuant to the impugned order, which cannot be said to be in the interest of the prosecution and/or investigating agency. As observed by this Court in the earlier round of litigation (Criminal Appeal Nos. 1657, 1658, 1659 and 1660 of 2021), the investigating agency has the right to investigate the criminal proceedings and only in rarest of rare cases, the same can be stalled and/or stayed.

5. After making some submissions, Shri Maninder Singh and Shri Patwalia, learned Senior Advocates, appearing on behalf of the original writ petitioners – accused have stated at the Bar that they do not invite any further reasoned order if this court is intending quashing and setting aside the impugned interim order passed by the High Court dated 14.02.2022 passed in respective Special Criminal Application Nos. 9112 of 2019, 9111 of 2019 and 9475 of 2019. However, they have requested for making suitable observations to the effect that the respective special criminal applications be decided and disposed of in accordance with law and on its own merits. In that view of the matter, we are not passing any further detailed reasoned order while quashing and setting aside the impugned interim order passed by the High Court. However, suffice is to say that the learned Single Judge of the High Court has seriously erred in passing the impugned interim orders, which can be said to be in the teeth of our earlier judgment and order in the case of **M/s. Neeharika Infrastructure Pvt. Ltd. (supra)** and even in Criminal Appeal Nos. 1657 to 1660 of 2021.

6. It appears from the impugned order passed by the High Court that the learned Single Judge has not properly appreciated and/or considered our earlier judgment and order passed in **M/s. Neeharika Infrastructure Pvt. Ltd. (supra)**. Even the learned Single Judge has also not properly understood the ratio of the decision of this Court in the case of **M/s. Neeharika Infrastructure Pvt. Ltd. (supra)**. It appears that the learned Single Judge seems to be of the opinion that after giving

- A reasons, the High Court can grant an interim stay of further investigation in a petition seeking quashing of the criminal complaint filed under Article 226 of the Constitution read with Section 482 Cr.P.C. The High Court has not properly appreciated the principles and the law laid down by this Court in the case of **M/s. Neeharika Infrastructure Pvt. Ltd. (supra)**.
- B What is emphasized by this Court in the case of **M/s. Neeharika Infrastructure Pvt. Ltd. (supra)** is that grant of any stay of investigation and/or any interim relief while exercising powers under Section 482 Cr.P.C. would be only in the rarest of rare cases. This Court has also emphasized the right of the Investigating Officer to investigate the criminal proceedings. In our earlier judgment and order, in fact, we abstracted
- C the principles laid down by this Court in the case of **M/s. Neeharika Infrastructure Pvt. Ltd. (supra)** in paragraph 4.

7. Despite the earlier judgment and order passed by this Court in the very criminal proceedings quashing and setting aside the earlier interim orders passed by the High Court, which came to be set aside by this
- D Court, again, the learned Single Judge has granted the very same interim relief, which as observed hereinabove, can be said to be in teeth of and contrary to our earlier judgment and order in the case of **M/s. Neeharika Infrastructure Pvt. Ltd. (supra)**. We are not observing anything further as the learned Senior Advocates appearing on behalf of the original writ
- E petitioners – accused have prayed not to pass any further reasoned order.

8. In view of the above stand taken by the learned Senior Advocates appearing on behalf of the original writ petitioners before the High Court and the private respondents herein – original accused recorded hereinabove and the specific submission made, we set aside the impugned
- F order dated 14.02.2022 passed in respective Special Criminal Application Nos. 9112 of 2019, 9111 of 2019 and 9475 of 2019. Meaning thereby, there shall not be any interim relief during the pendency of the aforesaid special criminal applications. The Investigating Officer is directed to complete the investigation at the earliest and preferably within a period
- G of three months from today and file appropriate report/charge sheet before the concerned Criminal Court having jurisdiction. It goes without saying that the High Court shall consider the special criminal applications in accordance with law and on its own merits. It is also observed that it will be open for the respective accused – original writ petitioners to move appropriate applications for seeking anticipatory bail, as we have
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observed so in our earlier order dated 17.12.2019 and, if filed, the same A
be considered in accordance with law and on its own merits.

Present Appeals are Allowed accordingly. Pending application, if
any also stands disposed of.

Bibhuti Bhushan Bose

Appeals allowed.