

Bombay High Court

Rajeev Kumar S/O N. K. Prasad vs State Of Maharashtra And Anr on 24 January, 2023

Bench: S. V. Kotwal

1/7

22-IA-1

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1001 OF 2022
IN
CRIMINAL APPLICATION NO.1157 OF 2019
IN
CRIMINAL APPEAL NO.1376 OF 2012

Rajeev Kumar S/o N. K. Prasad

.... Applic

versus

State of Maharashtra & Anr.

.... Respon

.....

- Mr. Rajeev N. Kumar (Applicant-in-person).
- Smt. M. R. Tidke, APP for the State/Respondent No.1.
- Ms. Ameeta Kuttikrishnan, Advocate for Respondent No.

CORAM : SARANG V. KOTWAL, J.

DATE : 24th JANUARY, 2023

P.C. :

1. Heard Mr. Rajeev N. Kumar, the Applicant in person, Ms. Ameeta Kuttikrishnan, learned counsel for Respondent No.2, and Smt. M. R. Tidke, learned APP for the State.

2. This is an application with the following prayer :

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"SP, CBI ACB, Mumbai to comply the order of 29/10/2021 and to return amount of Rs.1,15,000/- and Rs.30,500/- (i.e. Rs.1,45,500/-) in valid legal tender or by way of Demand Draft."

3. The Applicant had preferred Criminal Application No.1157 of 2019 in Criminal Appeal No.1376 of 2012. This Court (Coram : C. V. Bhadang, J.) vide order dated 29/10/2021 had directed the return of amount mentioned at Serial No.8 and 10 of List-2 of the order of learned Special Judge, Greater Mumbai, dated 26/03/2015. Therefore, this Court had directed the return of amount of Rs.1,15,000/- and Rs.30,500/- which were seized from the cabin of the Applicant at the time of the raid. The amount was directed to be returned to the Applicant subject to undertaking that the Applicant would bring back the same if ordered by this Court.

4. The grievance of the Applicant in this application is that the currency notes which were seized in 1998 are no more valid currency notes because of the demonetization in the year 3/7 22-IA-1001-22-IN.odt 2016. Therefore, he is seeking return of that amount in valid legal tender.

5. The contesting Respondent No.2 has filed affidavit-in-

reply. The relevant provisions are quoted in that particular reply.

Learned counsel for the Respondent No.2 relied on these provisions and submitted that appropriate orders be passed. She relied on the 'Specified Bank Notes (Cessation of Liabilities) Act, 2017'. She particularly relied on section 5 and section 11 of the said Act, which read as follows :

"Section 5 -

On and from the appointed day, no person shall, knowingly or voluntarily, hold, transfer or receive any specified bank note :

Provided that nothing contained in this section shall prohibit the holding of specified bank notes -

(a) by any person -

(i) up to expiry of the grace period ; or

(ii) after the expiry of the grace period -

4/7 22-IA-1001-22-IN.odt (A) not more than ten notes in total, irrespective of the denomination; or (B) not more than twenty-five notes for the purposes of study, research or numismatics;

(b) by the Reserve Bank or its agencies, or any other person authorised by the Reserve Bank;

(c) by any person on the direction of a court in relation to any case pending in the court.

Section 11 -

(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, 5/7 22-IA-1001-22-IN.odt the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

6. She submitted that, pursuant to the power u/s 11, the Central Government has framed Rules which are notified on 12/05/2017. Rule 2 of those Rules, reads thus :

"2. Deposit of confiscated specified bank notes - Where specified bank notes have been confiscated or seized by a law enforcement agencies or produced before a court on or before the 30th day of December 2016, such specified bank notes may be tendered, at any office of the Reserve Bank specified under sub-section (1) of section 4 of the Act or nationalised bank designated by the Reserve Bank for the said purpose, for deposit in a bank account or exchange of the value thereof with legal tender, subject to the following conditions, namely :-

(a) in case confiscated specified bank notes are returned by the court to a person who is a party in case pending before that court, then, the person shall be 6/7 22-IA-1001-22-IN.odt entitled, on production of the direction of the court, to deposit or exchange such specified bank notes, the serial numbers of which -

(i) have been noted by the law enforcement agency which confiscated or produced them before the court; and

(ii) are mentioned in the direction of the court;

(b) in case specified bank notes are forfeited in favour of the Central Government or the State Government by an order of the court, then, that Government shall be entitled, on production of the direction of the court, to deposit or exchange such specified bank notes; or

(c) in case specified bank notes are placed in custody of any other person by an order of the court on or before the 30th day of December, 2016, then, the person shall be entitled, on production of the direction of the court, to deposit or exchange such specified bank notes, the serial numbers of which

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(i) have been noted by the law enforcement agency which confiscated or produced them before the court; and

(ii) are mentioned in the direction of the court."

7. She submitted that the amount therefore can be returned to the Applicant is valid currency notes by issuing necessary directions.

8. Therefore, the Respondent No.2 is directed to follow the procedures prescribed in the aforesaid Rules and return the amount of Rs.1,45,500/- to the Applicant in valid currency notes.

9. With these directions, the application is disposed of.

(SARANG V. KOTWAL, J.)