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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO.4231 OF 2022

Vishvanidhi Dalmia ...Petitioner
Versus
The State of Maharashtra and Ors. ...Respondents

***WITH
INTERIM APPLICATION NO.1179 OF 2023
IN
CRIMINAL WRIT PETITION NO.4231 OF 2022***

IIFL Commodities Limited
Erstwhile India Infoline Commodities Limited ...Applicant/Intervenor

IN THE MATTER BETWEEN:

Vishvanidhi Dalmia ...Petitioner
Versus
The State of Maharashtra and Anr. ...Respondents

Mr. Rajiv Chavan, Senior Advocate a/w Mr. Gaurav Parkar, for the
Petitioner.

Mr. Amit Desai, Senior Advocate a/w Mr. Gopalakrishna Shenoy
Mr. Aditya Mehta, for the Applicant/Intervenor.

Mr. Avinash Avhad, Spl. P.P. a/w Mr. Sahil Ghule, and Ms. P. P. Shinde,
A.P.P for the Respondent – State.

Sr. P.I. - Prakash Bagal a/w P.I - Kate, from Economic Offences Wing,
are present.

Mr. Anoop Kumar Singh, Principal Secretary, Home Department, Government of Maharashtra, is present.

Mr. Chetan Chavan, Desk Officer, Home Department, Mantralaya, is present.

***CORAM : REVATI MOHITE DERE &
MANJUSHA DESHPANDE, JJ.***

DATE : 12th MARCH 2024

P.C. :

1. On 15th December 2023, this Court (Coram : A.S.Gadkari & Shyam C. Chandak, JJ.), passed the following order:

“1) Taking into consideration the allegations and counter-allegations made by the learned counsel for the Petitioner and learned counsel for the India Infoline Commodities Ltd., we deem it appropriate that, the Principal Secretary, Home Department, Government of Maharashtra to file a comprehensive Affidavit, not only dealing with this Petition but the steps to be adopted and/or the State may consider to adopt be put up on the said Affidavit.

2) We direct Mr. Avhad, learned Special P.P. appearing for the State in the present case to bring to the notice of Principal Secretary, Home Department, Government of Maharashtra, the various facets of the present Petition on which a deliberation has taken place today in the Court.

3) This be done within a period of six weeks from today.

4) Stand over to 9th February, 2024.

5) To be listed under the caption “for directions”.

2. Accordingly, the matter was adjourned to 9th February 2024.

3. On 9th February 2024, we after observing non-compliance of the order dated 26th July 2022 passed in Criminal Writ Petition No.2073 of 2022 and the order dated 15th December 2023, passed in the aforesaid writ petition, passed the following order:-

“1. There are two orders of which non-compliance is alleged by the learned counsel for the petitioner; one the order dated 26th July 2022 passed in Criminal Writ Petition No.2073 of 2022 and the other order dated 15th December 2023 passed in the aforesaid writ petition.

2. In the order dated 26th July 2022 whilst disposing of the earlier writ petition filed by the very same petitioner being Criminal Writ Petition No.2073 of 2022 in para 4 of the said order, we observed as under:-

“4 Mr. Avhad, learned Special Public Prosecutor appearing for the respondent-State, submits that appropriate steps in accordance with law will be taken by the authorities, pursuant to the representation/letter dated 14th December 2018 sent by the petitioner to the Principal Secretary, Home Department. Statement accepted. Mr. Avhad further submits that the Investigating Officer will take into consideration the properties mentioned at Exhibit K and after verifying, will take the petitioner’s representation, to its logical end. Statement accepted.”

3. The petition was accordingly disposed of in view of the statement made by Mr. Avhad, learned Special Public

Prosecutor.

4. Thereafter, the aforesaid petition came to be filed. This Court on 15th December 2023, passed the following order:-

- 1) *Taking into consideration the allegations and counter- allegations made by the learned counsel for the Petitioner and learned counsel for the India Infoline Commodities Ltd., we deem it appropriate that, the Principal Secretary, Home Department, Government of Maharashtra to file a comprehensive Affidavit, not only dealing with this Petition but the steps to be adopted and/or the State may consider to adopt be put up on the said Affidavit.*
- 2) *We direct Mr. Avhad, learned Special P.P. appearing for the State in the present case to bring to the notice of Principal Secretary, Home Department, Government of Maharashtra, the various facets of the present Petition on which a deliberation has taken place today in the Court.*
- 3) *This be done within a period of six weeks from today.*
- 4) *Stand over to 9th February, 2024.*
- 5) *To be listed under the caption “for directions”*

5. Despite, six weeks being granted to file affidavit, Mr. Avhad, learned Special Public Prosecutor, yet again seeks time. When we expressed the seriousness, Mr. Avhad, on instructions of Mr. Mahadeo Kirwala (Competent Authority) seeks last chance of four weeks to file an affidavit-in-reply.

6. Accordingly, by way of last chance and indulgence, we grant time of four weeks to file an affidavit-in-reply.

7. If the affidavit-in-reply is not filed within the said period of four weeks, we will be constrained to adopt appropriate steps for non-

filing of the affidavit, by the Principal Secretary, Home Department, Government of Maharashtra.

8. Stand over to **1st March 2024.**”

4. On 1st March 2024, since time to file affidavit had not come to an end, the matter was adjourned to 8th March 2023. Since on 8th March 2023 the matter did not reach, the same was mentioned out of turn at 1:30 p.m. and was accordingly adjourned to 12th March 2024 i.e. today under the caption ‘for Direction’.

5. Today, Mr. Avhad, learned Special Public Prosecutor has tendered an affidavit-in-reply of the respondent No.1, dated 6th March 2024. The same is taken on record. In para 1 of the said affidavit, leave of this Court is sought to file a detailed affidavit-in-reply, as and when required. The affidavit filed is a 1½ page affidavit and not a comprehensive affidavit, as directed by this Court vide order dated 15th December 2023. The affidavit is also bereft of several details and is vague, in particular para 3.

6. In para 5 of the affidavit, it is stated that only after getting a final decision from this Court that the State by following due process of law will within a period of three weeks issue notification for attachment of the required property of IIFL, so that the Competent Authority will take further necessary steps, as per law.

7. Having gone through the affidavit, we are afraid that the affidavit is not in terms of what was directed by this Court vide order dated 15th December 2023 and is vague and is far from comprehensive.

8. Normally, we would have not asked the Principal Secretary, Home Department, Government of Maharashtra to remain present, however, considering the history of the orders passed by this Court from time to time and what is expressed by Mr. Avhad, learned Special Public Prosecutor, we deem it appropriate to direct the Principal Secretary, Home Department, Government of Maharashtra, to remain present before us, today at 2:30 p.m. The matter is kept

back at 2:30 p.m.

At 2:30 p.m.

9. Pursuant to the directions passed by us, in the first session directing the Principal Secretary, Home Department, Government of Maharashtra, to remain present in this Court at 2:30 p.m., Mr. Anoop Kumar Singh, Principal Secretary, Home Department, is present before this Court. He assures us that without waiting for the outcome of the final decision in the aforesaid petition, as stated in para 5 of the affidavit, the State by following due process of law, will issue notification for attachment of the concerned properties of IIFL, within four weeks from today. Statement accepted.

10. Stand over to **16th April 2024**. The said Notification to be placed before us, on the next date.

MANJUSHA DESHPANDE, J.

REVATI MOHITE DERE, J.