

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION NO. 507 of 2015****With****R/CRIMINAL REVISION APPLICATION NO. 508 of 2015****With****CRIMINAL MISC.APPLICATION (FOR EXTENSION OF INTERIM RELIEF)****NO. 1 of 2022****In R/CRIMINAL REVISION APPLICATION NO. 507 of 2015****With****CRIMINAL MISC.APPLICATION (FOR EXTENSION OF INTERIM RELIEF)****NO. 1 of 2022****In R/CRIMINAL REVISION APPLICATION NO. 508 of 2015**

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ANIL KESHNATH RAI**Versus****STATE OF GUJARAT & 1 other(s)**

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Appearance:**MR HARDIK A DAVE(3764) for the Applicant(s) No. 1****DELETED for the Respondent(s) No. 2****MR R. C. KODEKAR, APP PROSECUTOR for the Respondent(s) No. 1**

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CORAM:HONOURABLE MR. JUSTICE SAMIR J. DAVE**Date : 18/08/2022****ORAL ORDER****COMMON ORDER IN CR. RA NOS.507 AND 508 OF 2015**

1. Heard learned advocates for the respective parties.
2. The Coordinate Bench has passed the following order on 03.09.2015:

“Learned Counsel has requested to delete respondent no.2.

Permission is granted.

Notice returnable on 18th September, 2015.

In the meantime further proceedings of Criminal Case

No.222/2012 pending before the learned Chief Judicial Magistrate, Navsari are stayed qua the petitioner.

Direct service is permitted.”

3. Subsequently, in the case of **Asian Resurfacing of Road Agency Pvt. Ltd. Vs. Central Bureau of Investigation** reported in **AIR 2018 SC 2039**, the Hon’ble Supreme Court has held as under:

“34. In view of above, situation of proceedings remaining pending for long on account of stay needs to be remedied. Remedy is required not only for corruption cases but for all civil and criminal cases where on account of stay, civil and criminal proceedings are held up. At times, proceedings are adjourned sine die on account of stay. Even after stay is vacated, intimation is not received and proceedings are not taken up. In an attempt to remedy this, situation, we consider it appropriate to direct that in all pending cases where stay against proceedings of a civil or criminal trial is operating, the same will come to an end on expiry of six months from today unless in an exceptional case by a speaking order such stay is extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay was more important than having the trial finalized. The trial Court

where order of stay of civil or criminal proceedings is produced, may fix a date not beyond six months of the order of stay so that on expiry of period of stay, proceedings can commence unless order of extension of stay is produced.

35. Thus, we declare the law to be that order framing charge is not purely an interlocutory order nor a final order. Jurisdiction of the High Court is not barred irrespective of the label of a petition, be it under Section 397 or 482 Cr.P.C. or Article 227 of the Constitution. However, the said jurisdiction is to be exercised consistent with the legislative policy to ensure expeditious disposal of a trial without the same being in any manner hampered. Thus considered, the challenge to an order of charge should be entertained in a rarest of rare case only to correct a patent error of jurisdiction and not to re-appreciate the matter. Even where such challenge is entertained and stay is granted, the matter must be decided on day-to-day basis so that stay does not operate for an unduly long period. Though no mandatory time limit may be fixed, the decision may not exceed two-three months normally. If it remains pending longer, duration of stay should not exceed six months, unless extension is granted by a specific speaking order, as already indicated. Mandate of speedy justice applies to the PC Act cases as well as other cases where at trial stage proceedings are stayed by the higher court i.e. the High Court or a court below the High Court, as the case may be. In all pending

matters before the High Courts or other courts relating to PC Act or all other civil or criminal cases, where stay of proceedings in a pending trial is operating, stay will automatically lapse after six months from today unless extended by a speaking order on above parameters. Same course may also be adopted by civil and criminal appellate/ revisional courts under the jurisdiction of the High Courts. The trial courts may, on expiry of above period, resume the proceedings without waiting for any other intimation unless express order extending stay is produced.”

4. In view of the above decision of the Hon’ble Supreme Court, the Interim relief, granted earlier, is extended till the next date of hearing i.e. 17.02.2023. Stand over to 17.02.2023.

COMMON ORDER IN CRIMINAL MISC. APPLICATIONS

In view of the common order dated 18.08.2022 passed in main Criminal Revision Applications, present Criminal Misc. Applications do not survive and both the Criminal Misc. Applications stand disposed of accordingly.

(SAMIR J. DAVE,J)

MEHUL B. TUVAR