



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

CRIMINAL WRIT PETITION NO.542 OF 2022

C. T. Sadanandan & Ors. ...Petitioners
Versus
P. V. Sawant & Anr. ...Respondents

Mr. Amit Desai, Sr. Advocate with Mr. Aashish Bhan, Ms. Chitra Rentala,
Mr. Pranay Kamdar and Ms. Aastha Kulshresta i/b TRI Legal for the
Petitioners

None for the Respondent No. 1

Ms. Anamika Malhotra, A.P.P for the Respondent No.2–State

CORAM : REVATI MOHITE DERE, J.
MONDAY, 21st FEBRUARY 2022

P.C. :

1 Heard learned senior counsel for the petitioners.

2 By this petition, the petitioners have impugned the order dated
14th October 2021 passed by the learned Metropolitan Magistrate, 16th
Court at Ballard Pier, Mumbai, issuing summons to the petitioners.



3 Learned senior counsel for the petitioners submits that the petitioner No.1 had resigned from the Company six months prior to the alleged offence. He further submits that taking the prosecution case as it stands, no offence as alleged is made out *qua* the petitioners. Learned senior counsel submits that in the absence of any provision laid down under the Statute, neither the director of a company nor an employee of the company can be held vicariously liable for any offence committed by the employer. Learned senior counsel for the petitioners submits that even under sub-clause (2) of Clause 42 of 2002 Scheme, there is no provision of vicarious liability and as such the complaint filed as against the petitioners was not maintainable. He submits that similarly placed co-accused had filed a petition in this Court being Criminal Writ Petition No. 75/2022 and that this Court has granted interim relief to the said petitioners vide order dated 20th January 2022.

4 Issue notice to the respondents, returnable on 1st March 2022. Learned A.P.P waives notice on behalf of the respondent No.2-State. Hamdast permitted. In addition to Court notice, petitioners to serve the



respondent No. 1 by Advocate's notice and file an affidavit of service before the returnable date.

5 In the meantime, till the next date, the proceedings before the trial Court *qua* the petitioners, is stayed.

6 The aforesaid petition to be tagged along with Criminal Writ Petition No. 75/2022.

REVATI MOHITE DERE, J.