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ITEM NO.3

COURT NO.11

SECTION IIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).4814/2012

(From the judgement and order dated 28/03/2012 in WPCRL No.371/2012
of The HIGH COURT OF BOMBAY)

NILAM GOHRE & ANR

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(With appln(s) for ex-parte stay,exemption from filing c/c of the impugned
Judgment,exemption from filing O.T.)

Date: 28/08/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN
HON'BLE MR. JUSTICE DIPAK MISRA

For Petitioner(s) Mr. U.U. Lalit,Sr.Adv.
Mr. Tapeshe Kumar Singh,Adv.

For Respondent(s) Mr. B.H. Marllapalle,Sr.Adv.
Mr. Sanjay V. Kharde,Adv.
Mr. Shankar Chillarge,Adv.
Mr. Amol Karande,Adv.
Ms. Asha Gopalan Nair,Adv.

UPON hearing counsel the Court made the following
O R D E R

This matter has come up for hearing before us because of the conflicting view taken by the Delhi High Court [in Rakesh Bisht v. CBI, ILR 2007 (1) Delhi 223] as well as by the Bombay High Court [in CBI v. Abdul Karim Telgi, 2005 CRLJ 2868 (Bombay)] as to whether the petitioners can be compelled to give voice sample during the course of investigation. Learned counsel appearing for the respondent-State brought to our knowledge paragraph 3 of the order dated 7.1.2012 passed by the Sessions Judge at Pune in Cr. Revision Application No.112/2011, which is extracted hereunder:-

"3. The main issue involved in the revision is whether magistrate has competence or has source or powers to issue directions to give voice sample during pendency of investigation. Though impugned order was passed during pendency of investigation, due to passage of time now charge-sheet has been filed. Since the charge-sheet is filed, it has made material difference as now under different provisions prosecution can seek permission for taking voice sample. However, I do not want to scuttle from adjudicating raised question which relates to alleged violation of fundamental rights. Now the involved question that whether during pendency of investigation accused can be compelled to give voice sample has remained only for academical purpose and interest. With such background I proceed to decide

revision petition on its own merits to answer the grounds agitated by petitioner."

The view expressed by the learned Sessions Judge was that the investigation was already over, therefore, the question whether during the pendency of investigation accused can be compelled to give voice sample has remained only for academical purpose and interest.

That being the factual situation, we find no reasons to finally pronounce upon the question of law raised before us since the matter has now remained only for academic purpose.

The special leave petition is, accordingly, disposed of.

However, it is open to the parties to urge all their contentions before the Trial Court during trial and that will be decided by the Court in accordance with law.

| (NARENDRA PRASAD)

| COURT MASTER

| | (RENUKA SADANA)

| | COURT MASTER

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