

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**MISCELLANEOUS APPLICATION NO. _____ OF 2023
(DIARY NO. 10002 OF 2023)**

WITH

I.A. NOS. 50625, 50630 AND 50627 OF 2023

IN

CRIMINAL APPEAL NO. 1256 OF 2022

EDAPADDI PALANISWAMI ... PETITIONER(S)

VERSUS

R.S.BHARATHI & ANR. ... RESPONDENT(S)

AND

RAJ KISHOR RAUT ... APPLICANT (S)

JUDGMENT

KRISHNA MURARI, J.

Permission to file the intervention application is granted .

2. Application for intervention stands allowed.

3. We have heard learned counsel appearing on behalf of the applicant.

4. By means of this Miscellaneous Application, the applicant seeks a clarification of the order dated 03.08.2022 passed by this Court in Criminal Appeal No. 1256 of 2022.

5. The said criminal appeal was directed against an order dated 12.10.2018 passed by Madras High Court allowing the petition under Section 482 filed by the respondent therein with a direction to hand over all the case files and material to the Central Bureau of Investigation to conduct a preliminary enquiry against the appellant therein and other co-accused. This Court vide final judgment and order dated 03.08.2022 allowed the appeal and remitted the matter back to the High Court to consider the same afresh and pass appropriate orders in accordance with law.

6. The applicant by means of this application alleging massive fraud by one IRB Expressway Private Limited apprehending connivance with unknown officials of State of Maharashtra /MSRDC/MPEL who, according to applicant, may have conspired to give relief of reduction in contractual payment to the

Government undertaking by more than Rs.70 crores on frivolous concocted grounds.

7. Apprehending that the order dated 03.08.2022 passed by this Court may come in the way of applicant who intends to seek the investigation in the matter through CBI and in abundant caution the application has been filed seeking clarification of the judgment dated 03.08.2022

8. A bare perusal of the averments made in the application seeking clarification goes to show that on having come to know that M/S. IRB Expressway Private Ltd. (IRB) which is operating in connivance with the officials of the State of Maharashtra has got a relief of about Rs.70 crores by falsely claiming exemption due to covid. The applicant had issued a notice dated 06.03.2023 to IRB giving them an opportunity to disclose the defense prior to initiating legal action which was duly replied by the said company denying the allegations with the explanation and supporting correspondence with officials exchanged in this regard which the applicant has himself brought on record annexing the said documents to the application.

9. Learned counsel for the applicant submits that the order dated 03.08.2022 passed by this Court setting aside directions of the High Court for preliminary

enquiry by CBI, may come in his way to seek CBI investigation into the complaints and allegations and, therefore, the order needs to be clarified.

10. We are really surprised at the manner and the reasons in which this application has been made. A perusal of Annexure-3, the response of IRB, in reply to the notice issued by the applicant itself goes to show that reduction in payment of premium was allowed by the authorities because the Government of India had ordered complete closure of all Toll Plazas including the one in issue w.e.f. 26.03.2020 to 19.04.2020 due to covid.

11. Office memorandum dated 13.05.2020 issued by the Government in this regard is also a part of the documents annexed by the applicant himself in the application invoking the force majeure clause in the agreement between the parties. In such peculiar factual matrix of the contractual matter between a different set of parties, in our opinion, the complaint, if any made by the applicant has to be considered on its own merits and the judgment and order dated 03.08.2022 passed by this court, in a totally unconnected matter, between different parties, having no nexus with alleged complaint which the applicant proposes to make, will have no bearing on the same and thus the order dated 03.08.2022 does not call for any clarification or modification at the behest of the present applicant.

12. Further, in any view of the matter, the applicant has no locus to seek clarification/modification of an order passed in a totally unconnected matter.

13. The application is totally misconceived and, accordingly, stands dismissed.

.....,J.
(KRISHNA MURARI)

.....,J.
(SANJAY KAROL)

**NEW DELHI;
24TH MARCH, 2023**