

ITEM NO.51+69

COURT NO.12

SECTION II-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (CrI.) Nos.10126-10127/2023

(Arising out of impugned final judgment and order dated 25-07-2023 in CRLRA No. 130/2018 25-07-2023 in CRLRA No. 131/2018 passed by the High Court Of Judicature At Bombay)

VIPUL PRAMODCHANDRA SHAH &amp; ANR.ETC.

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA

Respondent(s)

(IA No.163698/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

WITH

SLP (CrI.) No(s). 10531/2023

(FOR ADMISSION and I.R. and IA No.169692/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT )

Date : 25-08-2023 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAM NATH

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Petitioner(s) Mr. Anish R. Shah, AOR  
Mr. Vikram Sutaria, Adv.  
Ms. Astha Deep, Adv.

For Respondent(s)

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

The present petitions have been filed assailing the correctness of order dated 25.07.2023 passed by the High Court of Bombay in Criminal Revision Application Nos. 131/2018 and 130/2018 and Criminal Application No.348/2014, which reads as follows :

"For the reasons to be recorded separately, I pass the following order:

i. Criminal Revision Application No.130 of 2018; Criminal Revision Application No.131 of 2018 and Criminal Application No.348 of 2014 are rejected.

ii. At this stage learned counsel for Applicant submitted that interim relief granted by this Court may be continued for period of four weeks to enable the Applicants to challenge the order before the Higher Court.

iii. The request is opposed by learned counsel for CBI. However considering the fact that the interim order was running in favour of the Applicant, the same is extended by four weeks.

iv. Applications are disposed off."

The reasons to be recorded separately have still not been uploaded. Learned counsel for the petitioner(s) states that he has checked the website of the Bombay High Court till yesterday evening and the reasoned order was not uploaded. It has been a month since the impugned order was passed. In the absence of the reasoned order, neither the petitioner(s) are in a position to effectively challenge the same nor is this Court in a position to test the correctness of such an order which does not contain reasons wherein it is specifically provided that the reasons would follow.

Learned counsel for the petitioner(s) has also placed reliance upon the decision of the Constitution Bench of this Court in "*State of Punjab & Others vs. Jagdev Singh Talwandi*", reported in (1984) 1 SCC 596, wherein in paragraph 30 of the said report, the Constitution Bench has observed as under :

"We would like to take this opportunity to point out that serious difficulties arise on account of the practice increasingly adopted by the High Courts, of pronouncing the final order without a reasoned judgment. It is desirable that the final order which the High Court intends to pass should not be announced until a reasoned judgment is ready for pronouncement. Suppose, for example, that a final order without a reasoned judgment is announced by the High Court that a house shall be demolished, or that the custody of a child shall be handed over to one parent as against the order, or that a person accused of a serious charge is acquitted, or that a statute is unconstitutional or, as in the instant case, that a detenu be released from detention. If the object of passing such orders is to ensure speedy compliance with them, that object is more often defeated by the aggrieved party filing a special leave petition in this Court against the order passed by the High Court. That places this Court in a predicament because, without the benefit of the reasoning of the High Court, it is difficult for this Court to allow the bare order to be implemented. The result inevitably is that the operation of the order passed by the High Court has to be stayed pending delivery of the reasoned judgment."

It is not completely alien to the system where reasoned orders are sometimes to be delivered later on, but that does not mean that such period of later-on can be unending. There could be urgency to the parties aggrieved by the operative portion of the order which has been uploaded and if the reasons are not available/uploaded, neither the party aggrieved nor the the Court considering the correctness of such order can validly challenge the same or test the same respectively.

Let a copy of this order be sent to the Registrar General of the Bombay High Court and the

status report be submitted by the Registrar General within a week.

List these matters again on 01.09.2023.

By the said date, the report of the Registrar General of the Bombay High Court be placed on record.

Till 01.09.2023, the interim protection provided to the petitioner(s) by the High Court to continue.

(NEETU KHAJURIA)  
ASTT. REGISTRAR-cum-PS

(RANJANA SHAILEY)  
COURT MASTER