

REPORTABLE**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION****INTERLOCUTORY APPLICATION NO.74084 OF 2023****IN
CRIMINAL APPEAL NOS.701-702 OF 2020****ENFORCEMENT DIRECTORATE
GOVERNMENT OF INDIA****APPLICANT(S)/APPELLANT(S)****VERSUS****KAPIL WADHAWAN & ANR. ETC.****RESPONDENT(S)****O R D E R**

This application is filed by the applicant/appellant seeking clarification of the judgment dated 27th March, 2023 passed by this Court. The relief sought in the prayer, *inter alia*, is as follows:-

"(I) Clarify 'Para 51' of the Judgment dated 27.03.2023 passed by this Hon'ble Court to the effect that the said judgment is only restricted to answering the issue referred to the larger bench and that several other issues which have been raised in the appeal would have to be considered by the appropriate bench of this Hon'ble Court till which time the impugned order of the High Court granting default bail, cannot be upheld by holding the same to be either correct or found to be in order."

Heard Mr. S. V. Raju, learned Additional Solicitor General appearing on behalf of the applicant/appellant and Mr. Mukul Rohatgi and Mr. Kapil Sibal, learned senior counsel appearing on behalf of the respondents.

The paragraph-51 in the Criminal Appeal Nos.701-702 of 2020 pronounced on 27.03.2023 by this Court following correction, should now read as under:-

"51. Following the above discussion and opinion, the impugned order of the High Court granting default bail to the respondents by applying the proviso (a) (ii) of Section 167(2) CrPC is found to be in order in terms of the reference made before this Court in respect of question referred before this Court and answered by us. Hence, we also uphold the impugned judgment dated 20.08.2020 passed by the learned Single Judge of the Bombay High Court. Any other pending issues arising from these appeals are to be addressed by an appropriate Bench of this Court."

The Interlocutory Application No.74084 of 2023 is allowed.

Pending application(s), if any, stand disposed of.

..... J.
[K. M. JOSEPH]

..... J.
[HRISHIKESH ROY]

..... J.
[B. V. NAGARATHNA]

New Delhi
Dated; 24th April, 2023.

ITEM NO.301

COURT NO.3

SECTION II-A

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

CRIMINAL APPEAL NOS.701-702/2020

ENFORCEMENT DIRECTORATE GOVERNMENT OF INDIA

APPELLANT(S)

VERSUS

KAPIL WADHAWAN & ANR.

RESPONDENT(S)

([ONLY IA No.74084/2023 IS TO BE LISTED UNDER THIS ITEM.]
IA No. 74084/2023 - CLARIFICATION/DIRECTION)

Date : 24-04-2023 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE K.M. JOSEPH
HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Appellant(s) Mr. S. V. Raju, A.S.G.
Mr. Mukesh Kumar Maroria, AOR
Mr. Kanu Agarwal, Adv.
Mr. Rajan Kumar Choursia, Adv.
Mr. Annam Venkatesh, Adv.
Ms. Sairica Raju, Adv.
Mr. Arkaj Kumar, Adv.
Mr. Zoheb Hussain, Adv.

For Respondent(s) Mr. Kapil Sibal, Sr. Adv.
Mr. Mukul Rohatgi, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Ankur Saigal, Adv.
Mr. Rohan Dakshini, Adv.
Mr. Shubham Kulshreshtha, Adv.
Mr. Kaustubh Singh, Adv.
Ms. Kamakshi Sehgal, Adv.
Ms. Pooja Kothari, Adv.
Ms. Urvi Gupte, Adv.
Mr. E. C. Agrawala, AOR

Mr. Shrirang B. Varma, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.

Mr. Sarad Kumar Singhania, AOR
Mr. Amit K. Nain, AOR

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

The paragraph-51 in the Criminal Appeal Nos.701-702 of 2020 pronounced on 27.03.2023 by this Court following correction, should now read as under:-

"51. Following the above discussion and opinion, the impugned order of the High Court granting default bail to the respondents by applying the proviso (a) (ii) of Section 167(2) CrPC is found to be in order in terms of the reference made before this Court in respect of question referred before this Court and answered by us. Hence, we also uphold the impugned judgment dated 20.08.2020 passed by the learned Single Judge of the Bombay High Court. Any other pending issues arising from these appeals are to be addressed by an appropriate Bench of this Court."

The Interlocutory Application No.74084 of 2023 is allowed in terms of the signed Reportable Order.

Pending application(s), if any, stand disposed of.

(JAGDISH KUMAR)
COURT MASTER (SH)

(POONAM VAID)
COURT MASTER (NSH)

(Original signed Reportable Order in I.A. No.74084 of 2023 in Criminal Appeal Nos.701-702 of 2020 is placed on the file)