

S.S.Kilaje

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 317 OF 2015**

Mrudul M. Damle

... Applicant

Versus

Union of India and Anr.

... Respondents

Mr. Ashok Mundargi, Senior Advocate a/w. H.G.Dharmadhikari, for the Applicant.

Mr. Amit Munde, Special P.P. a/w. Jai Vohra, Mr. Balaji Gurave and Mr. Shantanu Nakashe for Respondent – CBI.

Mr. S.R.Agarkar, APP for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

RESERVED ON : 27th APRIL, 2026.

PRONOUNCED ON: 11th JUNE, 2026.

P.C. :

1. This Criminal Revision Application is preferred against the common order of rejection of discharge application passed by the learned Special Judge for CBI at Thane below Exhibit- 35 in Special CBI Case No. 18 of 2012.

2. It is prosecution's case, initially CBI filed the FIR at New Delhi dated 01.02.2005 under Section 120(B) of Indian Penal Code, 1860 (for

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short "IPC") read with 13(2), 13(1)(d) of Prevention of Corruption Act, 1988 (for short "P.C.Act") against the accused No.1 and others on the alleged ground that the accused No.1 being a public servant conspired with the co-accused and the two EOUs (Export Oriented Units) and granted them licence under Sections 58 and 65 of Customs Act with retrospective effect which caused a huge loss to the Government Exchequer. The Government of India did not accord the sanction for prosecution, therefore the CBI filed Closure Report in the said case. During investigation of said case, the CBI conducted house search of the accused No.1 and the applicant at Thane and found amount more than known source of income. Accordingly, the CBI filed a FIR dated 14.07.2005 under Section 13(1)(e) read with 13(2) of P.C.Act against accused No.1 and under Section 109 of IPC read with 13(1)(e) and 13(2) of P.C. Act against applicant, being wife of accused No.1. It is alleged that accused No.1 while functioning as Government Servant during the check period from 01.04.2000 to 02.02.2005 has acquired and amassed wealth to the extent of Rs.54,67,633.06 in his own name and in the name of his wife i.e. applicant, which are beyond his known source of income and for which he was unable to satisfactorily account. It is, therefore, allegedly that he has committed above referred crime. Initially, the applicant had filed discharge application before the Special Judge CBI, Rohini Court, New Delhi, which

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was rejected. The said order was challenged before Delhi High Court. During pendency of the said Petition, the charge was framed against the applicant. The accused No.1 had filed petition before the Hon'ble Apex Court to transfer the case from CBI Court Delhi to Thane. Thereafter, the matter was transferred to CBI Court at Thane. Meantime, applicant and accused No.1 had filed Writ Petition in this Court challenging the order of rejection of discharge application passed by Rohini Court, Delhi. This Court disposed of the Petition and permitted the applicant to file fresh discharge application before Special Court, Thane. After filing the said application it is rejected, against the said order this revision application.

3. It is contention of learned Senior Counsel for the applicant that on the basis of first FIR, second FIR is registered. No second FIR could have been filed on the basis of the same facts. There is no provision under the Cr.P.C. for filing the second FIR in respect of same offence. Therefore, the sanction for prosecution accorded is illegal and incorrect. Learned counsel further submitted that the applicant since prior to her marriage is in profession of Chartered Accountant. She has independent source of income. There are arithmetical mistakes and error in calculation of the assets while calculating the income and expenditure of the applicant. Learned counsel further submitted that out of Rs. 10 lakh cash found in her bank locker, cash amount of Rs.5 lakh belongs to her father and Rs. 5 lakh

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was of her client who was informer of Customs, it was his reward amount. Rs.9 lakh found in Oriental Bank locker also belongs to Informer of Customs. In respect of cash amount of Rs.13 lakh found in her house, it belongs to her father. There is no case at all against the applicant. But these facts are not considered by the learned Special Court and requested to allow the application.

He relied on :-

- (1) *Meenakshi Khare and Anr. Vs. State of Madhya Pradesh*¹
- (2) *Robert Lalchungnunga Chongthu alias R.L.Chongthu Vs. State of Bihar*²
- (3) *Mansukhlal Vithaldas Chauhan Vs. State of Gujarat*³
- (4) *Mohd. Iqbal Ahmed Vs. State of Andhra Pradesh*⁴
- (5) *Nanjappa Vs. State of Karnataka*⁵
- (6) *State of Karnataka Lokayukta Police Vs. S. Subbegowda*⁶
- (7) *Nirankar Nath Pandey Vs. State of U.P. and Ors.*⁷
- (8) *State of Haryana and Ors. Vs. Bhajan Lal and Ors.*⁸

4. It is contention of learned SPP that the cash amount of Rs.19 lakhs was found in the lockers of the applicant and Rs.13 lakhs cash was found in the house of the applicant and accused No.1. It is alleged that out of total amount found in the lockers of the applicant, Rs.14 lakhs belongs

1 2026 SCC OnLine MP 467

2 2025 SCC OnLine SC 2511

3 1997 SCC 622

4 (1979) 4 SCC 172

5 (2015) 14 SCC 186

6 (2023) 17 SCC 699

7 2024 SCC OnLine SC 6110

8 1992 SCC (Cri) 426

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to client of applicant and amount of Rs.5 lakhs belongs to her father. Rs. 13 lakh cash found at the house of applicant and accused No.1 also belongs to father of applicant. These explanations advanced by applicant are not plausible. There is sufficient material against the applicant. Recording of evidence has started. The Special Court at Thane has passed well-reasoned order. No interference is required in it and requested to reject the application.

5. I have heard both the learned counsel. Perused impugned order, chargesheet and documents produced on record. It is alleged that, during the check period, disproportionate assets of Rs.54,67,633.06 found against the accused No.1. It is alleged that applicant has abetted in the commission of said crime. It is contention of the applicant that second FIR is not maintainable. Admittedly, an FIR under Sections 13(1)(d) and 13(2) of P.C. Act and 120-B of IPC was initially registered against the accused No.1 and others, but Central Government did not accord sanction for prosecution. While investigating first FIR, the Investigating Officer found that the accused No.1 has amassed property disproportionate to his known source of income. Accordingly, offence under Sections 13(1)(e) and 13(2) of P.C. Act and Section 109 of IPC was registered against the accused No.1 and applicant. Both the offences are totally different, having distinct ingredients and different cause of action. Hence, it cannot be said

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that the present FIR is an outcome of the first FIR and allegations in both the FIRs are the same. It is alleged that the cash amount of Rs.10 lakhs was found in the locker jointly held by the applicant and her mother in Rupee Cooperative Bank at the time of inspection.

6. It is contention of learned Senior counsel for the applicant that Rs.5 lakhs out of that amount belongs to her father and Rs.5 lakhs belongs to her client, who had received the said amount as reward for acting as informer for the Customs Department. Learned Senior counsel further submitted that Rs.14 lakhs was received by the applicant from the informer for safe custody in her capacity as Chartered Accountant. Out of said amount, Rs.9 lakhs was kept by her in bank locker No. 33 with Oriental Bank of Commerce, which was found during the inspection conducted by CBI, and therefore it cannot be concluded that the said amount was ill gotten money. In my view, applicant admits that cash amount of Rs. 19 lakh was found in her bank locker and it is contention that it did not belong to her and out of said amount, Rs. 14 lakhs belongs to informer of the Customs Department. To determine whether it belongs to the client of applicant or not, evidence is required. It is contention of learned Senior counsel that the said fact is mentioned in papers submitted to the income tax department. In my view, huge cash amount was found in the locker of the applicant. Mere papers produced by

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the applicant are not sufficient to prove the innocence of the applicant. The concerned informer and officer of the Customs Department has to be examined to prove it. It is alleged that cash amount of Rs.13 lakhs was found in the house of the applicant and accused No.1. It is contention of the applicant that the said amount belongs to her father and he had received the said amount from certain sale transactions. Mere explanation of the applicant about such huge cash amount cannot be accepted at *prima facie* stage. Post 2018 Amendment in P.C. Act, the statutory frame work places the eventual burden upon the public servant to satisfactorily account for the wealth in his possession. The discharge can be considered if the prosecution case is demonstrably groundless or suffers from fundamental or mathematical fallacies. It is settled law that calculation of dis-appropriate assets cannot be done with mathematical scientific precision. A reasonable margin of error upto 10% can be allowed for inflation, variance in valuation and minor omissions. If the disproportion falls within this margin, the Court can find the charge to be groundless. In the present case, huge cash amounts were found in the bank locker and house of the applicant. It shows her active involvement and abetment. To prove innocence of the applicant, evidence is required. The learned Special Judge has passed well reasoned order, I do not find infirmity in it. I have gone through the case laws cited by the learned Senior Counsel for the

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applicant. The facts of cited case and present case are different, hence no applicable. In view of above, I pass following order.

ORDER

- (i) The Revision Application is rejected.

(SHIVKUMAR DIGE, J.)