

NON - REPORTABLE

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

Miscellaneous Application No. 531 of 2023

With

Interlocutory Application No. 69324, 69326 & 69341 of 2023

in

Criminal Appeal No. 249 of 2020

Mukul Agarwal & Ors

... APPELLANT(S)

VERSUS

State of Uttar Pradesh & Anr.

... RESPONDENT(S)

Mukesh Maganlal Doshi

... APPLICANT

JUDGMENT

KRISHNA MURARI, J.

This Miscellaneous Application has been filed by the applicant- Mukesh Maganlal Doshi, seeking clarification of the order dated 10.02.2020 passed by this Court in Criminal Appeal No. 249 of 2020. The said Miscellaneous Application is accompanied by an application

seeking permission to file intervention for clarification and an application for intervention.

2. It is pertinent to point out at this stage itself that applicant was not a party in Criminal Appeal No. 249 of 2020, which was decided by order dated 10.02.2020, the clarification whereof is being sought by the applicant.

3. The facts as culled out in the application justifying seeking of the clarification by way of intervention in nutshell are as under:-

(i) A complaint was filed on 5th March, 2019 with the Police authorities at Mumbai pertaining to unauthorised sale of several units of building in favour of various persons by business associates of the complainant, which inter alia included sale of seven units to the present applicant's group.

(ii) The complaint also levelled allegations against his business associates for obtaining fraudulent loans from bank.

(iii) On 19.03.2020, the complainant approached Central Bureau of

Investigation (for short, 'CBI'), raising the same grievance. Even though, an FIR dated 23.09.2020 was registered by the Police authorities qua business associates of the complainants and others for availing bank loan fraudulently, however, the CBI did not register any complaint in respect of the allegations of unauthorized sale of the units.

(iv) A Commercial Suit No. (L) 370 of 2020 was filed by the complainant in respect of the unauthorized sale of seven units of the building in favour of the applicant and his group. There was a compromise between the parties in the said suit which came to be decree by the jurisdictional High Court vide order dated 16.03.2021, on the basis of compromise between the parties. The compromise decree acknowledged that the applicant's group was victim of fraud and after service of the notice of the suit, immovable property/value of the property in dispute was returned/refunded to the plaintiff/complainant.

(v) Thereafter, the Police authorities in Mumbai have filed a closure report under Section 157 of the Criminal Procedure Code, before the concerned Magistrate stating that no further investigation qua the applicant and his group was required.

4. However, in proceedings under PMLA¹ against the business associates of the complainant, the applicant's group has been wrongly roped in and thus a clarification is sought in the judgment and order dated 10.02.2020 passed in Criminal Appeal No. 249 of 2020, wherein it was held that finding of the civil court makes substratum of the criminal complaint vanish against any person and the criminal proceedings qua him are liable to be quashed and it will be a complete abuse of process of law to allow such persons to be prosecuted.

5. Learned counsel for the applicant contends that, in case, the law laid down by this Court in judgment dated 10.02.2020 passed in Criminal Appeal No. 249 of 2020 is not clarified to apply in the case of the present applicant, the same would result in multiplicity of proceedings and such a clarification would serve the ends of justice without causing prejudice to anyone.

6. We are not impressed by the submission of the learned counsel for the applicant.

¹ Prevention of Money Laundering Act, 2002

7. It is no doubt correct that the judgment and order dated 10.02.2020 passed by this Court in Criminal Appeal No. 249 of 2020 has held that the findings recorded in the civil proceedings make substratum of a criminal complaint vanish and thus, any pending criminal proceedings against such persons are liable to be quashed and allowing prosecution in such a situation would amount to complete abuse of proceedings of law.

8. It goes without saying that the law laid down by this Court is binding on all under Article 141 of the Constitution of India but before applying the law, the court where the proceedings are pending is required to test the applicability of the law declared by this Court on the basis of the facts of a particular case.

9. Such a blanket declaration sought by the applicant by way of clarification of an order by way of intervention in proceedings to which he is totally alien is not liable to be allowed. It goes without saying that facts and circumstances of a particular case are required to be tested to find out whether the law declared by this Court is applicable to the said facts or not. We have no reason to doubt that the courts will not follow

the binding law declared by this Court in case it is found that the same is applicable to the facts of a particular case.

10. In view of above, the applicant cannot be permitted to seek clarification of the order dated 10.02.2020 by way of an intervention as the same is a matter to be considered by the concerned court, where the proceedings in respect of the applicant is pending.

11. The application of the applicant for permission to file intervention is rejected and accordingly, the intervention and the application seeking clarification also stand dismissed.

12. The Miscellaneous Application stand disposed of accordingly.

.....J.
(KRISHNA MURARI)

.....J
(AHSANUDDIN AMANULLAH)

**NEW DELHI;
APRIL 26, 2023**