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Silver Audio Systems Vs. Associated Electronic and Electrical Industries

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Court : Karnataka

Decided On : Oct-08-1985

Reported in : ILR1986KAR217

Judge : Kundoor, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 451 and 452; [Trade and Merchandise Marks Act, 1958](#) - Sections 78, 79 and 85;

Appeal No. : Crl. Petn. No. 723 of 1984

Appellant : Silver Audio Systems

Respondent : Associated Electronic and Electrical Industries

Advocate for Def. : S. Rangarajan, Senior Adv., ;K.G. Raghavan for R-1 and ;P.M. Appaji, HCGP for R-2.

Advocate for Pet/Ap. : G.K. Shevgoor, Adv.

Disposition : Criminal petition allowed

Judgement :

ORDER

Kudoor, J.

1. The order that gave rise to this Criminal Petition is the order dated 19-1-1984 passed by the I Additional Chief Metropolitan Magistrate, Bangalore City, in P.C.R. No. 115 of 1983 on an application I. A-I filed by the petitioner under Section 457 of the Code of Criminal Procedure for release of the seized goods worth about Rs. 4,88,965/- by the Koramangala Police on 18-11-1983 during the course of the investigation of the private complaint filed by the 1st respondent.

2. I shall refer to the parties in the course of this order as they stood in relation to the private complaint filed by the 1st respondent.

3. To proceed further, it is relevant to refer to a few facts leading up to the filing of this petition.

4. The complainant Associated Electronic & Electrical Industries (Bangalore) Private Limited represented by its General Manager Sri G. Ramesh has filed a private complaint under Section 200 of the Code of Criminal Procedure against Silver Audio System Private Limited represented by its Director Sri M. B. Thakur and three others for offences under Sections 76, 77, 78, 79 and 85 of the [Trade and Merchandise Marks Act, 1958](#), under Section 63 of the Copyright Act, 1957 and for certain offences under the Indian Penal Code including Section 420 I.P.C. According to the complainant, the complainant is a private limited company incorporated under the Companies Act and it has got 'SHARP' as one of its registered trade marks. The complainant is dealing in electronic goods making use of the said registered trade mark. The complainant has alleged that the 1st accused (the petitioner herein) got published an advertisement on page 3 of the Indian Express in one of its issues for the month of October, 1983 most prominently displaying the marks 'Sharp quart clocks' causing confusion and deception not only to the public and trade but also to the complainant company causing enormous and irreparable damage and to its valuable reputation and proprietorship. It is further alleged that all the accused aided and abetted in causing unfair trading and violating the complainant's renowned and reputed trade marks and Copyright and other rights in common law and torts which all attract penal provisions jointly and severally. On these allegations, among other things, the complainant filed the private complaint in question before the I Additional Chief

Metropolitan Magistrate, Bangalore City.

5. The Learned I Additional Chief Metropolitan Magistrate, having felt that the complaint was needed to be investigated by the police, referred the complaint to the S.H.O., Koramangala Police Station under Section 156(3) of the Code of Criminal Procedure for investigation with a direction to search and seize incriminating articles. Pursuant thereto the Sub-Inspector of Police, Law and Order, Koramangala Police Station, registered a case in Crime No. 425/83 on 18-11-1983 and in the course of the investigation, searched the factory premises of the 1st accused in Koramangala and seized the goods from the custody and possession of the 1st accused and reported the seizure to the Court as required under the provisions of the Code of Criminal Procedure. The private complaint of the complainant was treated as P.C.R. 115/83 on the file of the Learned I Additional Chief Metropolitan Magistrate.

6. While the complaint was being investigated by the police, on seizure of the goods from the possession of the 1st accused, the 1st accused filed an application I.A-1 under Section 457 of the Code of Criminal Procedure for release of the seized goods in his favour. That application was seriously resisted by the complainant. During the pendency of the application I.A-1 for disposal, the police, after investigating the case, submitted a 'B' report stating that the complaint was a mistake of fact and as such no criminal offence was made out. The complainant has chosen to challenge the 'B' report and sought leave of the Court to prove his complaint independently. After the 'B' report was received by the Chief Metropolitan Magistrate and before the final order on the application I.A-1 was made, the complainant filed a Civil suit in O.S. No. 65/84 on 6-1-1984 in the Court of the 18th Additional City Civil Judge, Bangalore City, against the 1st accused for various reliefs relating to the registered trade mark 'SHARP' and copyright including a perpetual injunction to restrain the defendant from using the said trade mark to pass off their goods and for other consequential reliefs. Along with the plaint, two applications I.As-I & II were filed by the plaintiff, one relating to the registered trade mark 'SHARP' and the other relating to the copyright of 'SHARP' for temporary injunction to restrain the defendant from manufacturing and selling his goods with the trade mark 'SHARP' and also to prevent the defendant or

anybody claiming on behalf of the defendant to claim any right over the said trade mark and obtained an order of ex parte and interim injunction on 7-1-1984. The application I.A-1 in P.C.R. 115/83 came to be disposed of by passing the impugned order on 19-1-1984 rejecting the application. It is this order the correctness and the legality of which is under challenge in this Petition.

7. Sri Shevgoor, the Learned Advocate appearing for the 1st accused, in the course of his arguments, contended that the material placed before the Court below discloses that Electronic Industrial Corporation was using the trade mark 'SHARP' since 1971 to the knowledge of the complainant and the said firm has been taken over by the 1st accused under an agreement dated 29-6-1983 as a going concern meaning thereby the user of the trade mark 'SHARP' honestly and concurrently which was used by Electronic Industrial Corporation before it was taken over by the 1st accused ; that the allegations made by the complainant against the 1st accused in his complaint, having been investigated by the police and a 'B' final report was submitted to the Court, it must be held that no prima facie case was made out to infer that some offence had been committed in respect of the goods seized ; that the complaint was barred under Section 92 of the Trade and Merchandise Marks Act; that it is a well established principle of law that the goods seized should be returned either permanently or by way of interim custody to the person from whose possession they were seized ; that there are number of Civil suits between the parties relating to the trade mark and of its user, involving complicated questions of civil rights which show that the disputes between the parties were of a civil nature and do not constitute any criminal offence ; that the goods seized may not be required at the enquiry or trial of the case assuming that the accused were to face an enquiry or trial on the complaint filed by the complainant, since the 1st accused has admitted in unequivocal terms that the goods seized were manufactured by him by using the trade mark 'SHARP' and as such the question of identification of the goods seized would not arise and that no irreparable loss or injury would be caused to the complainant nor the trial of the case would be prejudiced if the goods are returned to the 1st accused. He has also pointed out that although the Learned Magistrate had strongly relied upon the ex parte order of temporary injunction granted in favour of the complainant in O.S. No. 65 of 1984, in making the impugned order, the temporary injunction granted

was subsequently vacated by the Learned City Civil Judge by his order dated : 10-4-1984, which was confirmed by this Court and also approved by the Supreme Court and in view of the undertaking given by the 1st accused before the Supreme Court that he would maintain the accounts of all the sales of the commodities using the trade mark involved in the dispute and as and when the Court desires they may be called, retention of the goods seized may not be justified.

8. Per contra, the argument advanced by Sri Rangarajan, the Learned Senior Advocate appearing for the complainant, to put it in a nutshell, was that on the accused's case that the accused company was incorporated on 6-5-1983 and further on his case that he did not get the assignment in writing of the trade mark 'SHARP' in question, his user of the said trade mark becomes a clear infringement of the complainant's registered trade mark and irrespective of whether the accused is convicted or acquitted in the criminal case, the offending goods are liable to be forfeited under Section 85 of the Trade and Merchandise Marks Act and what are liable to be forfeited cannot be returned under Section 457 of the Code of Criminal Procedure.

9. Supplementing the arguments advanced by Sri Rangarajan, it was maintained by Sri Raghavan who was also appearing for the complainant that admittedly as per the case made out by the 1st accused the registered trade mark 'SHARP' vests with the complainant though it is alleged that the said mark was concurrently used by Electronic Industrial Corporation ; that even if there was such a user by the said firm, the 1st accused would not get any right, unless his rights are recognised by the competent authority under the provisions of the Trade and Merchandise Marks Act ; that the alleged agreement upon which the 1st accused relied on, does not show that the trade mark 'SHARP' was also transferred in favour of the 1st accused and as such the 1st accused has absolutely no right to use the trade mark 'SHARP' ; that the 1st accused was restrained from using the trade mark 'SHARP' by an order of temporary injunction passed in O.S. 65/84 by the City Civil Judge, that the goods seized are liable to be forfeited to the Government, under Section 85 of the Trade and Merchandise Marks Act, they would be required for the purpose of identification at the enquiry or trial, that there is no substance in the plea of limitation since the 1st accused company came into

existence only in 1983; that in addition to the offences under the Trade and Merchandise Marks Act, offences under the Penal Code as well as under the Copyright Act were also alleged in the complaint and as such the bar under Section 92 of the Trade and Merchandise Marks Act does not apply to the offences alleged to have been committed by the 1st accused and on these grounds, among others, he submitted that the order passed by the Court below cannot be said to be either erroneous or unjust.

10. Sri. Appaji, the Learned High Court Government Pleader, did not support the impugned order.

11. The short point that arises for decision in the light of rival contentions urged in the case is whether the order impugned is unjust and improper liable to be reversed.

12. Chapter XXXIV of the Code of Criminal Procedure deals with disposals of property. Section 451 provides for custody and disposal of property pending enquiry or trial in certain cases. Section 452 deals with disposal of property at the conclusion of the enquiry or trial. Section 457, which is very relevant for our purpose, deals with the disposal of property, the seizure of which is reported by the Police under the provisions of the Code.

It reads :

(1) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Code, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property ;

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring

any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.

(emphasis is supplied)

13. A close reading of Section 457 would show that the power of the Magistrate under Section 457 respecting the property seized by any police officer under any of the provisions of the Code and the officer concerned makes a report to the Magistrate about such seizure and such property is not produced before the Criminal Court during an inquiry or trial is to make an order as he thinks fit respecting (1) the disposal of such property; (2) the delivery of such property to the person entitled to the possession thereof ; and (3) if such person cannot be ascertained, respecting the custody and production of such property. Sub-section (2) provides that if the person entitled to the possession of the property seized by the police is known, the Magistrate may order the property to be delivered to him on such conditions, if any, as the Magistrate thinks fit and proper in the circumstances of the case and if such person is unknown, then the Magistrate shall have to take action as provided in the latter portion of Sub-section (2).

14. On the facts of the case, we are concerned with the proper application of Section 457 in a case where the person entitled to the possession of the property seized by the police and about which a report is made to the Magistrate is known. There is no dispute in this case that the goods seized were seized from the possession of the 1st accused. It is also not in dispute that they were manufactured under the registered trade mark 'SHARP'. It is the case of the complainant that the act of the 1st accused in asserting his right of the user of the registered trade mark 'SHARP' and making use of the same in the manufacture of articles, constitute offences under the Trade and I Merchandise Marks Act and as such they are liable for confiscation under Section 85 of the Trade and Merchandise Marks Act whether the 1st accused is convicted of an offence under Section 78 or Section 79 or is acquitted of the said offences, under certain circumstances stipulated in the said sections. In this background, we have to consider whether the goods seized in this case attract any of the limitations against the release of the goods in favour of the 1st accused contemplated under

law. In *Ram Prakash v. State of Haryana*, : 1978 CriLJ1120 , dealing with the scope and ambit of Section 457 relating to the property seized by the police but not produced before the Court, the Supreme Court observed'. 'That has to be decided on its own merits in each case and the discretion of the Court has to be exercised after due consideration of the interests of justice including the prospective necessity of the production of the seized articles at the time of the trial. If the release of the property seized will, in any manner, affect or prejudice the course of justice at the time of the trial, it will be a wise discretion to reject the claim for return.'

15. Bearing these principles enunciated by the Supreme Court in mind, I shall proceed to consider the case on hand on merits.

16. There is hardly any doubt that there has been a number of Civil litigations between the parties respecting their right to use the registered trade mark 'SHARP' and to manufacture and sale of goods by using the said trade mark and regarding other incidental questions arising therefrom. Although elaborate argument was addressed by both sides in relation to their respective rights regarding the trade mark and its user, any observation or finding, on them is extraneous to the question now before the Court for consideration apart from such decision would affect the parties in their civil litigations. Thus the only question that requires to be considered at this stage is whether the order passed by the Court below in rejecting the claim of the 1st accused for return of the goods, seized from his possession, on the facts and in the circumstances of the case is unjust and improper. As noticed earlier, the 1st accused has claimed his ownership over the goods seized from his possession. He has also maintained that those goods were manufactured by him under the trade mark 'SHARP.' In these circumstances the question of identification of the goods seized at the time of the enquiry or trial would not arise. The description of the property, the items of property, the value of the property and the nature of the property are all mentioned in the seizure memo. If the Criminal Court were to hold that the 1st accused had committed the offences alleged against him in respect of these goods, there will not be any difficulty for the Court to take such action as it deems fit in respect of the goods at the conclusion of the trial, whether it is under Section 85 of the Trade and Merchandise Marks Act

or otherwise. However, I do not think on the admitted facts and in the circumstances of the case, there would be any prospective necessity of the production of the seized articles at the time of the trial. Delivery of these articles to the custody of the 1st accused would not defeat or prejudice the course of justice in any way at the time of the trial especially in view of the orders passed in the Civil Suit O.S. No. 65/84. In the suit O.S.No. 65/84, the complainant has sought for a perpetual injunction to restrain the 1st accused from using the trade mark 'SHARP' to pass off their goods and for consequential reliefs. The temporary injunction prayer was rejected as per the final order dated 10-4-1984 which was confirmed by this Court on 16-4-1984 in M.F.A. Nos. 829 and 830 of 1984. The matter was further carried to the Supreme Court and the Supreme Court, as per its order dated 10-8-1984, dismissed the petition for Special Leave to appeal against the order of this Court. The order of the Supreme Court reads :

'Mr. K. N. Bhat, Learned Counsel for the Respondent appears and states that he will maintain the accounts of all the sales of the commodities using the trade mark involved in the dispute and as and when the Court desires they may be called. On this statement, we dismiss the petition.'

It is seen from these orders that the 1st accused has been allowed to use the trade mark 'SHARP' for manufacturing the articles and pass them off, during the pendency of the Civil suit, as he was doing before. This was allowed by the Supreme Court because of the undertaking given by the 1st accused that he would maintain the accounts of all the sales of the commodities using the trade mark involved in the dispute. If the 1st accused is not prevented from manufacturing goods by making use of the trade mark 'SHARP', similar to the goods that had been seized by the police in this case and put them into market, I fail to see why he should not be allowed to use the goods seized from his possession, if the production of those goods is not necessary at the time of the trial either for the purpose of identification or otherwise. As per the undertaking given by the 1st accused, the 1st accused has to maintain accounts in respect of these goods also, if they are given to his custody.

17. The major portion of the order passed by the Magistrate in rejecting the application filed by the 1st accused for return of the goods seized from his possession consists of discussion and conclusions on various points canvassed by the parties relating to their respective claim over the user of the trade mark 'SHARP' and their right to pass off the goods so manufactured under that trade mark and thereby the Learned Magistrate missed the real point for decision in disposing of the application filed by the 1st accused under Section 457 for the return of the goods seized by the police. If this part of the order is excluded which has to be excluded as they relate to the rights of the parties respecting the user of the trade mark on merits and not very relevant to decide the question of disposal of the property under Section 457 of the Code, there remains the only ground from which the learned Magistrate draws support for his decision, was the ex parte temporary injunction obtained by the complainant in the suit O.S. No. 65/84. This is clear from para 15 of his order reads :

'In para 7 of page 7 on I.A. No. 1, the petitioner has, tried to substantiate his manufacturing of authorised electronic and electrical goods under the trade mark 'SHARP' saying that it is a lawful activity. Now there is a prohibition issued by a competent Civil Court prohibiting the petitioner accused No. 1 from using the trade mark 'SHARP'. Taking all these aspects into consideration, I feel that the goods seized cannot be returned to the petitioner-accused No. 1 at this stage.'

18. Since the ex parte order of injunction granted in favour of the complainant was vacated by the final order dated 10-4-1984 which has been confirmed by this Court, and approved by the Supreme Court, the last vestige of the sustenance of the impugned order was also removed. The observation of the learned Magistrate that the complainant would be affected during the course of the enquiry or trial in case the seized goods were released in favour of the 1st accused, appears to me unsound and does not warrant on the material produced and from the facts and circumstances of the case.

19. The thrust of the argument advanced on behalf of the complainant in support of the order passed by the Learned Magistrate was based upon Section 85 of the Trade and Merchandise Marks Act, that the goods seized may require in specie at

the time of the trial, as those goods would be liable for forfeiture to Government and what are liable to be forfeited cannot be returned under Section 457, I As noticed earlier, it is DO doubt true that Section 85 of the said Act provides that where a person is convicted of an offence under Section 78 or Section 79, or is acquitted of those offences under certain circumstances, the Court convicting or acquitting the accused may direct the forfeiture to Government of all goods and things by means of, or in relation to, which the offence has been committed, or would have been committed under the circumstances referred to in the Section. But the question for consideration is whether the goods seized in this case, in the circumstances of the case narrated above, do really require in specie even if the Criminal Court were to exercise its power of forfeiture to Government under Section 85 of the Trade and Merchandise Marks Act, once it is held that there could not be any prospective necessity of the production of the goods seized at the time of the trial, or that the trial of the case would not be prejudiced if these goods were not available in specie at the time of the trial. Undoubtedly, the goods seized are marketable goods. The only dispute is whether the 1st accused is entitled to manufacture them and put them into the market. The order passed in the Civil Suit O.S.No. 65/84, adverted to above, does not prevent the 1st accused from manufacturing similar goods under the trade mark 'SHARP" and put them into market. All that he is required is to maintain a true account of them as per his undertaking given to the Supreme Court. Section 85 in my opinion does not admit such a strict construction that the goods to be forfeited to the Government should be the goods in the same form in which they were seized and produced before the Court. The power of forfeiture could be exercised by the Court in a given case against the substituted goods which are liable for forfeiture to the Government. The forfeiture of the goods to Government as required under Section 85 whether in specie or the substituted goods will depend upon the facts of each case.

20. One other contention urged was that the undertaking given by the 1st accused to the Supreme Court to maintain accounts was not in respect of the past transactions, but only in respect of the future transactions and as such the goods seized in this case are not covered by the undertaking given by the 1st accused. It seems to me that this contention is without any force. It is seen from the order of the Supreme Court that the Counsel for the 1st accused gave an undertaking on

behalf of the 1st accused that the 1st accused would maintain the accounts of all the sales of the commodities using the trade mark involved in the dispute. All the sales of commodities would include both past and future sales using the trade mark involved and not only in respect of the future sales as sought to be made out. Sri Shevgoor, the Learned Advocate appearing for the 1st accused, has maintained that the undertaking given by the 1st accused to the Supreme Court would cover the past as well as the future sales of the commodities using the trade mark involved in the dispute. Further, the moment, the 1st accused deals with the goods seized and returned to him, he has to render a true account in respect of their sales as per the undertaking given by him and in that view the 1st accused cannot escape his liability to render a true account of the goods in question.

21. The only other contention that requires to be noticed is the contention urged by Sri Raghavan that under Section 452 Cr. P.C. the Court, while making the order for disposal of the property at the conclusion of the trial, could pass orders not only respecting the property that was produced before the Court but also in respect of the property not produced before the Court, but regarding which an offence appears to have been committed and in that view he further argued that though the seized goods in this case were not produced before the Court, still they may be required, at the conclusion of the trial, to deal with them under Section 452.

22. The Scheme of Chapter XXXIV of the Criminal Procedure Code relating to disposal of property as appear from a close reading of the relevant provisions shows that the disposal of property may arise at three different stages and circumstances. Where any property is produced before a Criminal Court during any enquiry or trial, the Court may make an order as it thinks fit for the proper custody of such property pending conclusion of the enquiry or trial and if the property is subject to speedy and natural decay or if it is otherwise expedient so to do, may make an order after recording such evidence as it thinks necessary directing the property to be sold or otherwise disposed of as provided under Section 451. In other words, the order that is contemplated under Section 451 relating to any property produced during the enquiry or trial is an interim order during the pendency of the enquiry or trial.

23. The order of disposal of the property stipulated under Section 452 Cr. P.C. is at the conclusion of an enquiry or trial. It provides that after the enquiry or trial in a Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal by destruction, confiscation or delivery to any person claiming to be entitled to possession of any property or document produced before it or in its custody or regarding which any offence appears to have been committed or which has been used for the commission of any offence. Sub-section (5) of Section 452 provides that the term 'property' referred to in Section 452 includes in the case of property regarding which an offence appears to have been committed not only such property as has been originally in the possession and under the control of any party but also any property into or for which the same may have been converted or exchanged and anything acquired by such conversion or exchange, whether immediately or other wise. A close examination of these provisions contained in Section 452 would go to show that the order of disposal of the property contemplated in Section 452 was at the conclusion of the enquiry or trial and the mode of disposal stipulated is by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise. If the disposal of the property is to be effected in these three modes provided in Section 452, logically it follows that the property to be disposed of in this manner must be in the custody of the Court or before the Court and not otherwise. If a property regarding which any offence appears to have been committed or which has been used for the commission of any offence and if such property is not produced before the Court or in the custody of the Court at the conclusion of the trial, it is superfluous to expect that the Court has to make an order of disposal of the property either by destruction or confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise. To illustrate that in a case of theft, let us say, the property stolen was a wrist watch but it was not traced during the course of the investigation and produced before the Court but the accused was put on trial on the basis of the other evidence and if the prosecution is able to establish that the accused had stolen the watch belonging to another and the case ends in a conviction or if the prosecution fails to establish the case and the accused is acquitted, there is no property before the Court in respect of which an order of disposal could be made as contemplated under Section 452. Section 452

does not stipulate that the disposal of the property at the conclusion of the trial arises only in a case where the accused is convicted. It equally applies to a case where the accede is acquitted provided the property to be disposed of must be either in the custody of the Court or produced before the Court. Thus I find no force in the contention urged by Sri Raghavan that Section 452 stipulates disposal of property where the property in respect of which an offence appears to have been committed but not produced before the Court.

24. Now turning to the second limb of his argument that the goods seized in this case are required for the purpose of making an order of disposal at the conclusion of the enquiry or trial, I do not think the very property is required to be preserved in view of Section 452(5) Cr.P.C. It stipulates that the term 'property' stipulated in Section 452 includes not only the property as has been originally in the possessor or under the control of any party regarding which an offence appears to have been committed but also any property into or for which the same may have been converted or exchanged and anything acquired by such conversion or exchange whether immediately or otherwise. If we apply the provisions contained in Sub-section (5) of Section 452 to the facts of the case, even if the goods seized are returned to the 1st accused and those goods in specie are not available at the conclusion of the trial, the price of those properties which the 1st accused would come into possession by putting them into market would partake the character of 'property' stipulated under Section 452 for the purpose of disposal of the property involved in the case. So in either way, I find no force in this contention.

25. In the result for the reasons stated above, the Criminal Petition is allowed. The order under challenge passed by the I Additional Chief Metropolitan Magistrate, Bangalore City dated 19-1-1984 is reversed. The goods seized by the Koramangala Police on 18-11-1983 from the custody of the 1st accused in Cr. No. 425/1983 are ordered to be released to the custody of the 1st accused on the 1st accused executing a bond in a sum of Rs. 4.50 lakhs with one surety viz., Mr. M. B. Moolchand, one of the Directors of the 1st accused-company, said to be owning individual assets to the tune of the security to be offered otherwise than his assets as a share-holder of the Company in a like sum to the satisfaction of the Court below and on executing such bond, the Court below shall issue the release order

to the concerned police to release the goods in favour of the 1st accused.

26. At the conclusion of this order, Sri Raghavan, the Counsel for the complainant has made an oral request to stay the operation of the order by 8 weeks for the purpose of taking up the matter in the higher Court. In view of the conclusion reached by this Court that the goods seized are not required at the stage of the trial and further the goods are ordered to be returned to the 1st accused against heavy surety and also taking into consideration the undertaking given by the 1st accused before the Supreme Court in the parallel civil proceedings, I do not think it is expedient in the interest of justice to grant the prayer sought. Accordingly the request made to stay the operation of the order is rejected.

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