

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

MISCELLANEOUS APPLICATION NO. 1358/2026

IN

CIVIL APPEAL No.4167/2012

M.T. ENRICA LEXIE & ANR.

Applicants

VERSUS

DORAMMA & ORS.

Respondents

O R D E R

1. We have heard Mr. K. K. Venugopal, learned senior counsel for the applicant and Mr. S. V. Raju, learned Additional Solicitor General assisted by Mr. Annam Venkatesh and Mr. Aljo K. Joseph, learned counsel appearing for the State of Kerala.

2. This is an application seeking direction for modification of the order dated 02nd May, 2012 in Civil Appeal No.4167 of 2012. The operative portion of the order dated 02nd May, 2012 reads as follows:

“26. Having regard to the above, we dispose of the present Appeal by the following order :-

(1) Subject to the compliances by the appellants as noted below, the Government of Kerala and its authorities shall allow the first appellant vessel to commence her voyage :-

(a) The Master of the first appellant vessel, the Managing Director of the owner of the first appellant vessel and the

Managing Director of the shipping agent, namely, James Mackintosh & Co. Pvt. Ltd shall furnish their undertakings to the satisfaction of the Registrar General of the Kerala High Court that six crew members, namely, Vitelli Umberto (Master), Noviello Carlo (Master SN), James Mandley Samson (Chief Officer), Sahil Gupta (2nd Officer), Fulbaria (Seaman) and Tirumala Rao (Ordinary Sea Man), on receipt of summons/notice from any court or by Investigating Officer or lawful authority shall present themselves within five weeks from the date of the receipt of such summons/notice and shall produce the first appellant vessel, if required by any court or the Investigating Officer or any other lawful authority, within seven weeks from the receipt of such summons/notice.

(b) The second appellant shall execute a bond in the sum of Rupees Three Crores before the Registrar General of the Kerala High Court for production of the first appellant vessel and securing the presence of the above six crew members as and when called upon by any court or the Investigating Officer or any other lawful authority.

(2) The assurance given by the Republic of Italy that if the presence of the four Marines, namely, Voglino Renato (Sergeant), Andronico Massimo (1st Corporal), Fontano Antonio (3rd Corporal) and Conte Alessandro (Corporal), is required by any court or lawful authority or Investigating Officer, the Republic of Italy shall ensure their presence before such court or lawful authority or Investigating Officer is accepted. Such assurance shall, however, not affect the right of the above four Marines to challenge such summons/notice issued by any court or Investigating Officer or any other lawful authority before a competent court in India.

27. It is clarified that the investigation into Crime No. 2/2012 registered at Neendakara Coastal Police Station shall not be an impediment for commencement of the voyage by the first appellant vessel subject to port and customs clearances in accordance with law and upon furnishing the undertakings and bond as noted above.

28. The four Marines, namely, Voglino Renato (Sergeant), Andronico Massimo (1st Corporal), Fontano Antonio (3rd Corporal)

and Conte Alessandro (Corporal), may sail on the vessel together with all equipments, arms and ammunitions on board the first appellant vessel other than those already seized by the Investigating Officer.”

3. It is not in dispute that the prosecution stands terminated by reason of quashing of the FIR by this Court *vide* order dated 15th June, 2021. Operative part of the said order reads as follows:-

“7. In view of the above and for the reasons stated above and in exercise of the powers under Article 142 of the Constitution of India, we dispose of/close the present proceedings by directing as under:

(a) FIR No.2/2012 of Coastal PS, Neendakara, Kollam, Kerala re-registered as FIR No. R.C. No. 04/2013/NIA/DLI dated 4 April 2013, under Sections 302, 307, 427 read with Section 34 of the Indian Penal Code, 1860 and Section 3 of the Suppression of Unlawful Acts Against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act, 2002 registered by the National Investigation Agency, New Delhi, and all proceedings emanating therefrom including the proceedings pending before the Ld. Special Designated Court, Patiala House Courts, New Delhi are hereby quashed;

(b) The Bail-Bonds dated 2 June 2012 executed by Chief Master Sergeant Massimiliano Latorre and Sergeant Major Salvatore Girone as also Mr. Vishal Talwar and Mr. Vikas Talwar who stood as Sureties, in connection with the aforementioned FIR before the Ld. Special Designated Court, Patiala House Courts, New Delhi and the Ld. Registrar General of this Court are hereby discharged;

(c) The Ld. Registrar General of this Court shall release the original Bank Guarantees bearing Nos.0071IGFIN000618 and 0071IGFIN000418, both dated 11 June 2018 for Rs. Two Crores each, issued by the UCO Bank, Kollam Branch, extended through Letters of Extension Nos. UCO/KOLLAM/BG/02/2020-21 and UCO/KOLLAM/BG/01/2020-21 dated 28 May 2020, given on behalf

of the two Sureties, Mr. Vikas Talwar and Mr. Vishal Talwar;

(d) All pending matters before this Hon'ble Court including (1) the Special Leave Petition (C) No. 20370 of 2012, (2) Writ Petition (C) No. 236 of 2014, (3) Writ Petition (C) No. 919 of 2014 and all pending I.As in the said proceedings are disposed of with no order as to costs.

(e) As per the award dated 21.05.2020 and even as agreed by the learned senior counsel appearing on behalf of the Republic of Italy, learned Solicitor General appearing on behalf of the Union of India and the learned senior counsel appearing on behalf of the State of Kerala, now the Republic of Italy shall resume its criminal investigation in the events of 15.02.2012 and it is further directed that the Union of India, Republic of Italy and the State of Kerala shall cooperate with each other in pursuit of that investigation.

8. We also further direct that the amount of Rs. Ten Crores now lying with the Registry of this Court be transferred to the High Court of Kerala, out of which Rupees Four Crores be paid to the heirs of each deceased and Rs. Two crores be paid to the owner of the boat – St. Antony. We request the Hon'ble Chief Justice of the Kerala High Court to nominate a Judge to pass appropriate order of disbursement/investment of the amount to be paid to the heirs of each deceased (Rupees Four Crores each) so as to protect the interest of the heirs and ensure that the compensation is duly received by the heirs and not diverted/misappropriated. The order of disbursement/investment be passed after hearing the heirs of each deceased and appropriate order be passed, protecting the best interest of the heirs of each deceased. The remaining amount of Rs. Two Crores be paid to the owner of the boat – St. Antony by an account payee cheque.

4. It is in these circumstances that the applicant has approached this Court with the miscellaneous application seeking the following relief:

a) To modify the order dated 02.05.2012 and may direct the

Registrar General of High Court of Kerala to release/return the Bond of Three Crores, and all undertakings so submitted the Appellant/Applicant in WP(C) No.6083 of 2012 from which Writ Appeal No.679 of 2012 was filed and later the Civil Appeal No.4167 of 2012 was preferred by the Petitioner before this Hon'ble Court.

5. We have found from a letter dated 27th December 2024 issued by the Registrar General, High Court of Kerala, Ernakulam addressed to the applicant's advocate that 1) undertaking submitted by Captain Umberto Vitelli, 2) undertaking submitted by Mr. Farokh H Commissariat, Managing Director, 3) undertaking submitted by Mr. Schiano Lomoriello Pio, Managing Director and 4) Bond for an amount of Rs.3,00,00,000/- are lying in the safe custody of the Registrar General and forms part of the records.

6. It also appears therefrom that a demand draft dated 05th May, 2012 for Rs.3,00,00,000/- drawn on Standard Chartered Bank has been returned to Advocate Bijish B. Tom, counsel for the 2nd respondent in Civil Appeal No.4167/2012 on 09th May, 2012 on substituting the same with a fixed deposit receipt and that consequent upon an order dated 12th July, 2013 in Civil Appeal No.4167 of 2012, the aforesaid fixed deposit receipt has been released to the appellant no.2 viz. Dolphin Tanker SRL represented by Mr. Jacob John, Manager, James Mackintosh & Co. Private Ltd.

7. Having noted the aforesaid state of affairs, we dispose of the miscellaneous application by ordering modification of the order

dated 02nd May, 2012 to the extent that the applicants shall stand discharged of the undertakings that they had given pursuant to the said order.

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

.....J.
[DIPANKAR DATTA]

.....J.
[SHEEL NAGU]

**New Delhi;
July 13, 2026.**

ITEM NO.49

COURT NO.7

SECTION XI-B

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

Miscellaneous Application No.1358/2026 in C.A. No.4167/2012

[Arising out of impugned final judgment and order dated 02-05-2012
in C.A. No.4167/2012 passed by the Supreme Court of India]

M.T. ENRICA LEXIE & ANR.

Petitioners

VERSUS

DORAMMA & ORS.

Respondents

I.A. No.120809/2026-MODIFICATION OF COURT ORDER

Date : 13-07-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA
HON'BLE MR. JUSTICE SHEEL NAGU

For Petitioner(s) : Mr. K. K. Venugopal, Sr. Adv.
Mr. V. J. Mathew, Sr. Adv.
Ms. Anu B., AOR
Ms. Chinmayee Chandra, Adv.
Mr. Anirudh G. Kamath, Adv.
Ms. Megha Madhavan, Adv.
Ms. Merline Mathew, Adv.
Mr. Adarsh Mathew, Adv.
Mr. Bibhuti Krishna, Adv.
Mr. Vaibhav Choudhary, Adv.
Mr. Motihsham Ali, Adv.

For Respondent(s) : Mr. S. V. Raju, A.S.G.
Mr. Annam Venkatesh, Adv.
Ms. Sairica Raju, Adv.
Mr. Amrish Kumar, Adv./AOR

Mr. Aljo K. Joseph, AOR

Mr. M. T. George, AOR

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

1. Miscellaneous application stands disposed of in terms of the signed order.
2. Pending application(s), if any, shall stand disposed of.

(RASHMI DHYANI PANT)
ASTT. REGISTRAR-cum-PS

(SUDHIR KUMAR SHARMA)
COURT MASTER (NSH)

(signed order is placed on the file)