

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1415 OF 2015 IN
CRIMINAL WRIT PETITION NO.844 OF 2014

Sunil s/o Narhari Karande ... PETITIONER

VERSUS

The State of Maharashtra ... RESPONDENT

.....
Shri J.N. Singh, Advocate for applicant
Shri S.B. Pulkundwar, A.P.P. for respondent
.....

CORAM: S.S. SHINDE AND
 A.I.S. CHEEMA, JJ.

DATED: 21st July, 2015.

ORAL ORDER :

1. Heard the learned counsel for the applicant and learned A.P.P. for the State. Perused the contents of the application and also prayer made in the application. This application is filed for recalling the order dated 3.12.2014, passed in Criminal Writ Petition No.844/2014. Upon careful perusal of the order dated 3.12.2014, and in particular clause (2) thereof, it is abundantly clear that this Court applied its mind to the case on merits and then expressed opinion and then rejected

the petition.

2. The learned counsel appearing for the applicant has placed reliance on the judgment of Calcutta High Court in the case of **Asit Kumar Kar Vs. State of West Bengal & ors.**, reported in **2009 CJ (SC) 113** and in particular para 8 thereof and submits that this application deserves to be allowed.

3. Learned A.P.P. appearing for the State vehemently opposed the prayer for recalling the order dated 3.12.2014.

4. We have given careful consideration to the submissions advanced by learned counsel for the applicant, perused the contentions raised in the application and also judgment in the case of Asit Kumar (supra). The provisions of Section 362 of the Criminal Procedure Code read thus :

"362. Court not to alter judgment:- Save as otherwise provided by this Code or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error."

5. Since the present proceedings are arising out of

F.I.R. No.4664/2013, the judgment in the case of Asit Kumar (supra) cannot be made applicable. Therefore, in view of the bar contained in Section 362 of the Criminal Procedure Code, we are not inclined to entertain this application to recall the order dated 3.12.2014. In that view of the matter, the application stands rejected.

(A.I.S. CHEEMA, J.)

(S.S. SHINDE, J.)

fmp/cr1415.15