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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1398 OF 2015

Mallesh Laxminarayan Badagu & Anr.	..Petitioners
Vs.	
The State of Maharashtra & Anr.	..Respondents

Mr. I.M. Khardi for Petitioners.
Mrs. Sangeeta D. Shinde, APP for Respondent No.1-State.

CORAM: A.S. GADKARI, J.

DATE : 25th June 2015.

P.C.

Heard learned Counsel for the petitioner.

2 The petitioners have filed this petition under Article 227 of the Constitution of India challenging the order dated 18.11.2014 passed by the learned Chief Judicial Magistrate, Solapur in R.C.C. No.232 of 2000 below Exhibit 103 (for cancellation of warrant) and Exhibit 104 (for releasing on bail) respectively.

3 The respondent no.2 filed a private complaint bearing RCC

No.232 of 2000 on 14.12.2000 for the offences punishable under Sections 420, 465, 468, 469, 471 read with Section 34 of the Indian Penal Code. The record discloses that after the process was issued, the petitioners herein constantly remain absent and tried to dodge the prosecution. In those circumstances, the learned Trial Court passed the order directing issuance of non-bailable warrant against the petitioners. The petitioners were produced before the Trial Court. The petitioners moved the Application below Exhibits 103 and 104 for cancellation and releasing on bail the petitioners respectively, during the pendency of the said proceedings. The learned Trial Court in its impugned order has observed that the petitioners herein have taken it for granted that their absency in the said proceedings will not be noticed by the Court. The Trial Court has also observed that because of the absency of the petitioners, the proceedings filed in the year 2000 remained pending for such a long period. In the circumstances, the Trial Court instead of sending the petitioners behind bars, during the pendency of the criminal proceedings proceeded to pass the impugned order thereby directing petitioners to pay penalty of Rs.7000/- each to prove their bonafide. The said order of imposition of penalty is impugned herein.

4 I have gone through the record placed before me. The Trial Court has recorded factual matrix of the case and by showing leniency, only imposed penalty on the petitioners apart from awarding costs to the original complainant. The learned Trial Court was kind enough in not sending the petitioners behind bars during the pendency of the criminal proceedings though the petitioners have constantly remained absent in the said proceedings. I find that the learned Trial Court has not committed any error while passing the said impugned order dated 18.11.2014 and the present petition is therefore sans of merits and is accordingly dismissed in limine.

(A.S. GADKARI,J.)