

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 231 OF 2015

Mr. Shahnawaz Fair Mohammed Khan & Ors.	Applicants
vs.	
The State of Maharashtra & Anr. ...	Respondents

Mr. Rishi Bhuta, Advocate, for the applicants
Mr. D.R. More, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 14th September, 2015.

P.C.

Rule. Rule made returnable forthwith with consent of the parties.

2. The present applicants are accused in C.C. No. 1154/PW/2012 pending before Metropolitan Magistrate, 60th Court, Kurla, Mumbai. Now the matter is transferred to 52nd Court, Kurla, Mumbai, by an order dated 5.5.2015. In the present case, the applicants herein had filed an application seeking discharge on 14.3.2013. Thereafter, the applicants were granted exemption from appearance on more than two occasions. The Roznama shows that on 6.9.2014, the learned Magistrate had explained the charge to

the accused and that the accused pleaded not guilty. Witness summons were issued and the matter was adjourned to 12.11.2014.

3. The learned counsel for the applicants vehemently submits that the learned Magistrate could not have ramed the charges or recorded the plea of the accused on 6.9.2014 without deciding the application seeking discharge, which was filed below exhibits 16 to 18. The matter is scheduled before the learned Magistrate on 8.10.2015. The learned counsel for the applicants submits that in the eventuality that the matter is remanded to the concerned Court, the applicants would argue the application seeking discharge on 8.10.2015.

4. In view of this, the matter deserves to be remanded. The learned Magistrate before proceeding with the next stage of the trial, shall decide the application below Exhibits 14 and 16 on 8.10.2015. The application is accordingly disposed of in view of the above directions.

(SMT.SADHANA S.JADHAV, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed order.