

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION No. 713 OF 2015
IN
CRIMINAL APPLICATION No. 69 OF 2013

Mohammed Javed Abdul Sattar
Shahabajkar and Another.

..Applicants.

Versus

State of Maharashtra.

..Respondent.

Mr. S. A. Ingawale for the Applicants.

Ms. M. H. Mhatre, learned APP for the State.

Coram : RANJIT MORE &
R. G. KETKAR, JJ.

Date : **October 30, 2015.**

P. C. :

1. Heard the learned Counsel appearing for the Applicant and learned APP for the State. By this application, the Applicant is seeking following reliefs :

“The Hon'ble Court may pleased to release / return the passports of the Applicants which are kept in the Records and proceedings of Sessions Case No. 72 of 2007 of Raigad-Alibag arising out of C.R.No. I-32/2006 registered with Uran Police Station Raigad in Cri. Appeal No. 1325 of 2012.”

2. The Applicants were tried as accused Nos.2 and 3 by the Sessions Judge, Raigad-Alibag in Sessions Case No.72 of 2007. Accused No.1 in the said case was their son – Shahwaz. The said sessions case was disposed of by the Sessions Court at Alibag vide its judgment and order dated 8th November 2012, whereby

original accused no.1, i.e., son of the Applicants herein, is convicted for the offence punishable under section 304 Part-I of IPC. So far as the present Applicants (original accused Nos. 2 and 3) are concerned, they have been acquitted. Son of the Applicants preferred an appeal against conviction before this Court. The said appeal is pending. The State of Maharashtra had preferred an application before this Court seeking leave to appeal against the acquittal of Applicants herein. The said application, being Criminal Application No. 69 of 2013, is dismissed by this Court on 26th March 2013.

3. Mr. Ingawale, the learned Counsel appearing for the Applicants submitted that Applicant No.1 was released on regular bail and Applicant No.2 was released on anticipatory bail by the Sessions Court. He further submitted that Applicant No.1 surrendered his passport before the JMFC Uran as a condition precedent for his bail and Applicant No.2 had surrendered his passport on oral direction. This fact is not disputed by learned APP for the State.

4. Learned Counsel appearing for the Applicants submitted that the Applicants could not prefer application before the trial Court for the reliefs sought in the present application for the reason the original R&P has been forwarded to this Court as per the orders passed by this Court in the appeal against conviction filed by the son of the Applicants and along with the

said R&P, the Applicant's passports have also been sent to this Court.

4. Since the Applicants are acquitted in the said sessions case and State's application for leave to appeal against their acquittal has been dismissed, in our view, the Applicants are entitled for return of their passports. Hence, application is made absolute in terms of prayer clause (a).

5. Learned APP for the State shall inform the Registry of this Court within two weeks from today whether the Passports of the Applicants have been directed to be deposited in the Court records pursuant to the orders passed in any other case. If there is no such direction, the Applicants will obtain their Passports from the Registrar Judicial-II of this Court.

[R. G. KETKAR, J.]

[RANJIT MORE, J.]