

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 895 OF 2016

Shri Udaysing Shankarsing Pardeshi & Ors.		Petitioners
vs.		
The State of Maharashtra & Anr.		Respondents

Mr. Vivekanand S. Tadake, Advocate for the petitioners.
Mr. Vishal L. Kolekar for respondent No.1.
Ms.kV.S.Mhaispurkar, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 25th July, 2016.

P.C.

1. Rule. Rule made returnable forthwith with the consent of the parties. Heard learned counsel for the petitioners.

2. The petitioners herein are being prosecuted for the offence punishable under Section 138 of the Negotiable Instruments Act at the behest of respondent No.1. The learned Magistrate has issued process on 21.1.2016. Initially, it was the contention of the petitioners that the process ought not to have been issued as the notice was received by

him beyond the limitation. However, it is an admitted position that the complaint has been filed within the limitation and the issue of receipt of notice is to be considered at the stage of recording of evidence.

3. The order dated 21.1.2016 was challenged by way of Revision by filing Revision Application No.32 of 2016 before the Sessions Court, Pune. In the said proceeding i.e. Cri. Revision Application, the petitioners had filed an application seeking stay of the order of issuance of process during the pendency of the Revision. However, the said application has been rejected against which the petitioners have filed the present Writ Petition.

4. The issue raised for seeking stay to the impugned order of issuance of process was that the notice was received beyond the limitation. However, the said issue could not have been considered at that stage and no application was maintainable on that ground. The order passed by the learned Sessions Judge dated 29.1.2016 does not warrant any interference. Hence, the Petition stands dismissed with no order as to costs.

5. The learned Sessions Judge is hereby directed to decide the Revision Application No.32 of 2016 within eight weeks from the date of receipt of this order.
6. It is made clear that the pendency of the Criminal Revision Application No.32 of 2016 shall not be construed as a stay to the proceedings in STC No.1267 of 2015, pending before the Judicial Magistrate, First Class, Maval.
7. Petition stands dismissed. Rule is discharged.

(SMT. SADHANA S.JADHAV, J.)