

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1578 OF 2013

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders.

Court's or Judge's orders

Mr. S.V. Kotwal a/w Ashish Sawant for Petitioner.
Mr. D.A. Nalawade a/w Milind Sawant for Respondent Nos.1 & 3.
Ms. S.V. Gajare, APP for State.

CORAM : A.S. GADKARI, J.
DATE : 6th April March 2016.

P.C.:

- 1] The present petition is directed against the order of issuance of process dated 6.8.2010 passed by the learned Additional Chief Metropolitan Magistrate, 38th Court, Ballard Pier, Mumbai in CC No.39/SW/2010 under Sections 406, 408 read with Section 120B and 405 of the Indian Penal Code.
- 2] The learned Counsel for the respondent Nos.1 and 3 raised the preliminary objection that the present petition is not maintainable and cannot be entertained in view of the substantive alternate remedy available at the commend of the petitioners herein.
- 3] The Supreme Court in the case of Shalini S. Shetty Vs. Rajendra S. Patil reported in (2010) 8 SCC 329 has laid down the parameters for exercising the jurisdiction under Article 227 of the Constitution of India by the High Court and has held that, in cases where an alternative statutory mode of redressal has been provided, that would also operate as a restrain on

the exercise of power by the High Court.

4] In view of the above, the learned Counsel for the petitioners seeks leave to withdraw the present petition with liberty to file a Revision Application, if so advised before the appropriate Court within three weeks from today. It is needless to mention that if such a Revision Application is filed, the concerned Court shall take into consideration the period consumed in prosecuting the present writ petition i.e. from 15.4.2013 till today, as contemplated under Section 14 of the Limitation Act.

5] The learned Revisional Court is directed to decide the Revision Application within a period of six weeks from the date of its filing, after taking into consideration the fact that the process is issued on 6.8.2010.

6] Ad-interim relief granted by this Court by its order dated 17.6.2013 shall remain in force for a period of four weeks from today.

7] The Writ Petition is disposed off in the aforesaid terms.

(A.S. GADKARI, J.)