

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL WRIT PETITION NO. 1701 OF 2016

Shivaji Dinkar Jadhav and anotherPetitioners
V/s.
The State of Maharashtra and othersRespondents

Mr. Prashant P. Jadhav Advocate for Petitioners
Mr. P. D. Jain Advocate for Respondent no. 2.
Mr. A. R. Patil APP for the State.

CORAM : RAVINDRA V. GHUGE, J.
DATED : JULY 15, 2016.

PC :

- 1) Since the Petitioner himself is a partner with Respondent no. 3 Shivdatta Casting, leave to delete Respondent no. 3 is granted. Deletion be carried out forthwith. Petitioner no. 2 is the wife of Petitioner no. 1.
- 2) Rule. Rule made returnable forthwith and heard finally with the consent of the parties.
- 3) A very short issue has been raised by the Petitioners in this case.
- 4) Proceeding under Section 138 of Negotiable Instruments Act is the subject matter of C.C. No. 1077/SS/2015 before the learned Magistrate, 20th Court, Sewree, Mumbai.

5) Advocate for the Petitioners had filed an application thereby undertaking that the Petitioners would appear before the Court. Since the request was made on 03/02/2016, the non-bailable warrant issued earlier against the Petitioners was not pursued by Respondent no. 2. The next date of hearing was 09/03/2016. Since the petitioners did not appear on 09/03/2016, Respondent no. 2 moved an application dated 09/03/2016, Exhibit 54, praying for issuance of non-bailable warrant against the Petitioners.

6) It was in this backdrop that the learned Magistrate passed an order issuing a non-bailable warrant against the Petitioners who are accused nos. 2 & 3. Petitioners moved an application on the same day i.e. 09/03/2016 through their Advocate praying for the cancellation of the non-bailable warrant. The learned Magistrate noted the facts and on realizing that the accused were not remaining present in the Court and were not present even on 09/03/2016, rejected the application.

7) The learned Advocate for the Petitioner submits on instructions that as the matter is posted before the learned Magistrate on 19/07/2016, both the petitioners would appear before the learned Magistrate and file an application for cancellation of the non-bailable warrant.

8) Considering the above, this petition is disposed of by recording the statement of the Petitioners that they would remain present before the learned Magistrate on 19/07/2016. In the event that they remain present, they shall move an application for cancellation of the non-bailable warrant and the learned Magistrate would consider the same by imposing conditions on the accused as deemed fit.

9) Rule is discharged.

(RAVINDRA V. GHUGE, J.)