

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

CRIMINAL APPLICATION NO. 696 OF 2015

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 i/b S.D. Sawant for applicants.
Mr. Deepak Thakare APP for State.

CORAM : A.S. GADKARI, J.
DATE : 16th April 2016.

P.C.:

1] Heard the learned Counsel for the applicants. The respondent No.2 is duly served. However, neither the respondent No.2 nor any Advocate representing her is present today.

2] By this application, the applicant has challenged the order dated 12th June 2015 passed by the learned 2nd Judicial Magistrate, First Class, Barshi thereby rejecting the application of the applicant filed under Section 311 of Cr. P.C. for recalling the respondent No.2 Smt. Asma @ Sayama Bilal Shaikh the complainant in CR No.86 of 2008 under Sections 498A, 354, 323, 504, 506 read with Section 34 of the Indian Penal Code which has culminated into RCC No.423 of 2008 and pending for final adjudication on the file of 2nd Judicial Magistrate, First Class, Barshi.

3] The applicants-accused persons filed the application below Exhibit 101 in RCC No.423 of 2008 for recalling the complainant as stated above. The applicants by recalling the said complainant wanted to cross-examine the respondent No.2 on the basis of "Khulanama" (divorce deed). The

learned Trial Court rejected the said application on the ground that the complainant has already denied the document “Khulanama”. The learned Counsel for the applicants submitted that the said document has not been brought on record and marked as exhibit and therefore there is no question of denial of the said document. That the complainant has simplicitor denied the said document in her cross-examination on the leading question put to her. He submitted that the said document was received by the applicants subsequently and therefore the said document was not put up during the course of cross-examination of the complainant.

4] In view of the above, the application below Exhibit 101 of the applicants is hereby allowed and the applicants are permitted to cross-examine the complainant with respect to the document “Khulanama” only. The cross-examination of the complainant shall not exceed to any other question than pertaining to the said document “Khulanama” referred in the impugned order dated 12.6.2015. Needless to mention that while cross-examining the said witness, the applicants shall not put any questions which are not relevant to the document “Khulanama” (divorce deed).

5] The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)