

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1162 OF 2015**

Swetapadma Dhyanranjan Subudhi & Anr. ...Applicants
Versus
Dhyanranjan Subudhi & Ors. ...Respondents

Mr. S. S. Redekar for the Applicants

Mr. Kuldeep S. Patil for the Respondent No. 1

Mr. S. R. Agarkar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 21st SEPTEMBER, 2016

P.C. :

1. Heard learned Counsel for the parties.

2. Both the learned Counsel for the parties, do not dispute that the parties had filed Consent Terms which was executed before the Mediator Judge, however, the said Consent Terms as well as the Mediator's report are missing from the file of the Magistrate. It appears, that vide order dated 17th November, 2015, this Court had asked the Judicial Magistrate, First Class, Vasai to submit a report. Accordingly, a report dated 7th April, 2016 has been submitted by the learned Judicial Magistrate First Class, Vasai, in this Court.

3. Perused the report. It is not disputed that the parties had entered into Consent Terms before the Mediator Judge and accordingly the Consent Terms were sent to the concerned Court. It also appears from the report, that the Clerks were held responsible for the missing Consent Terms from the file of the Court and hence, the learned Judicial Magistrate First Class, Vasai, has sent a letter to the learned Principal District and Sessions Judge, Thane, seeking permission to reconstruct the said document and for taking necessary action against the concerned clerks.

4. By this application, the applicants are praying for the very same relief i.e. to direct the learned 3rd Judicial Magistrate First Class to reconstruct the Consent Terms arrived at between the applicants and the respondent No. 1 and for disposing of Misc. Criminal Application No. 752 of 2013 by passing decree/order as per the Consent Terms.

5. Learned Counsel for the respondent No. 1 does not dispute that Consent Terms were entered into by and between the parties, however, he submits that the consent has now been withdrawn by the respondent No. 1.

6. Be that as it may, considering the fact that the Consent Terms were filed, it is imperative that the Consent Terms be reconstructed, after which, the learned Judge shall, after hearing both the parties, pass appropriate order.

7. The learned Judicial Magistrate First Class, Vasai, shall make an endeavour to reconstruct the aforesaid document as expeditiously as possible, and preferably within one month from the date of receipt of this order. Needless to say, that the learned Judge is at liberty to take steps against those responsible for the missing document, in accordance with law.

8. Application is disposed of accordingly.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.