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WP-4544-2014
(sr. no.903/SUPPL.)
Wed,10.2.2016

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4544 OF 2014

Shantaram Bargode & Ors.

.....Petitioners

V/s.

State of Maharashtra & anr.

.....Respondents

* * * * *

Ms. Gauri Rao, Advocate for the petitioners.

Mr. Deepak Thakare, APP for State, respondent no.1.

Mr. D.W. Bhosale, Advocate for respondent no.2.

Coram :- Smt. R.P. SondurBaldota, J.

10th February, 2016.

P.C. :-

1). This petition challenges the order dated 28th January, 2008 passed by the trial Court issuing process against the petitioners in C.C. No. 208/SS/2008 for the offence punishable under Section 500 Indian Penal Code.

2). The petitioners had earlier filed Revision Application in this Court being Criminal Application No. 2209 of 2010 to challenge the order of issuance of process. That application was, withdrawn by the petitioners on 21st February, 2011 with liberty to approach the Sessions Court. The order granting liberty specifically mentions that, the learned Sessions Judge would undoubtedly consider the time spent in this Court for condoning the delay while entertaining the application. The petitioners, then approached the Sessions Court, by way of revision

alongwith an application for condonation of delay. The Sessions Court, by its order dated 14th May, 2012 allowed the application and condoned the delay in filing the Revision Application. However, the order was carried to this Court by respondent no.2 by preferring Criminal Writ petition No. 2602 of 2012. This Court finally heard the Writ Petition at the stage of admission and allowed the same with a finding that the petitioners had not explained the delay properly. As a consequence, the petitioner's revision application is not entertained and the order of issuance of process against the petitioners has not been considered on merit. Thereafter, the petitioners have filed the present petition to challenge the order of issuance of process.

3). This second petition as filed cannot be maintained. In view of the withdrawal of the earlier petition, the only circumstance in which the petitioner's can approach this Court is consideration by the Sessions Court of the merits of the challenge by the petitioner to the order of issuance of process. Since their application for condonation of delay in filing Revision Application stands dismissed pursuant to the orders of this Court, the only course open to the petitioners is to approach the higher Court to challenge the order of this Court. Hence, the petition is dismissed as not maintainable.

(SMT. R.P. SONDURBALDOTA, J)