

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 465 OF 2016

IN

WRIT PETITION No. 2351 OF 2015

Mohsin Jamal Khan
@ Mohsin Pathan and Others. ..Applicants.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. Tanveer Nizam, Mariam Nizam i/b Moinuddin Khan for the
Applicants.

Ms. S. D. Shinde, APP for the State.

Coram : Ranjit More &
Dr. Shalini Phansalkar-Joshi, JJ.

Date : **December 21, 2016.**

P. C. :

1. Heard the learned Counsel appearing for the Applicants and learned APP for the State. By this application, the Applicants are seeking recall of the order dated 4th October 2016 passed in Writ Petition No.2351 of 2015 and to restore the earlier order dated 20th August 2015 passed in the said writ petition. By the order dated 20th August 2015 we quashed the subject proceedings and allowed the writ petition subject to payment of cost of Rs.10,000/- by the Applicants in favour of the Central Police Welfare Fund within the period of two weeks from the date of order. The Petitioners were also directed to produce receipt of the same on the file of this Court within the period of four weeks from the date of order. The Petitioners did not produce the

receipt showing that payment of cost had been made. Writ petition was therefore placed before us for orders on 4th October 2016 and as nobody appeared on behalf of the Petitioners, neither any proof regarding the payment of cost was pointed out to us, we recalled the order dated 20th August 2015.

2. The learned Counsel appearing for the Applicants today invited our attention to Exhibit-D page 17 and submitted that payment of cost of Rs.10,000/- was in fact made on 28th August 2015, i.e., within the stipulated period of two weeks from the date of order dated 20th August 2015, however, this receipt was not produced in the Registry of this Court. This fact was not pointed out when the said writ petition was placed for orders on 4th October 2016. He tendered apology for not remaining present on that day.

3. In above circumstances, we find that the order dated 20th August 2015 was complied with inasmuch as deposit of cost of Rs.10,000/- was made within the stipulated period of two weeks. We accordingly recall our order dated 4th October 2016 and restore the earlier order dated 20th August 2015.

4. Criminal application stands disposed of.

[Dr. Shalini Phansalkar-Joshi, J.]

[RANJIT MORE, J.]