

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4627 OF 2015**

Kelly Jimmy Bhagwagar & Anr.	...Petitioners
Versus	
Keki Godrej Appoo & Anr.	...Respondents

Mr. J. G. Shetty for the Petitioners

Mr. Avinash Kamkhedkar, A.P.P for the Respondent No.1-State

Ms. Keki Godrej Appoo-Respondent No. 1 appears in-person

Mr. V. B. Konde-Deshmukh, A.P.P. for the Respondent No. 2

CORAM : REVATI MOHITE DERE, J.
MONDAY, 3rd OCTOBER, 2016

P.C. :

1. Heard learned Counsel for the parties.

2. By this petition, the petitioners have impugned the order dated 21st November, 2013 by which the learned Metropolitan Magistrate, 62nd Court, Dadar, Mumbai, was pleased to issue process as against the petitioners for the alleged offences punishable under Sections 454, 380 r/w 120-B of the Indian Penal Code, in case No. 85/SW/2012.

3. It appears that the petitioners have directly approached this Court, without availing the alternate remedy available to the petitioners of filing a revision application before the Sessions Court.

4. In view of the aforesaid, learned Counsel for the petitioners seeks leave to withdraw this petition with liberty to file an appropriate application before the Sessions Court, challenging the very order issuing process.

5. Accordingly, the petition is disposed of as withdrawn with liberty as prayed for.

6. If a revision application alongwith an application for condonation of delay is filed before the Sessions Court, challenging the order of issuing process, the learned Judge shall decide the same as expeditiously as possible. The learned Judge whilst deciding the delay condonation application, shall keep in mind the filing of this petition and its pendency in this Court.

7. It is made clear that this petition has not been heard on merits.

All contentions of all the parties are kept open.

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

REVATI MOHITE DERE, J.