

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 114 OF 2017
IN
CRIMINAL WRIT PETITION No. 3172 OF 2015

Iqbal Ahmed Irshad Ahmed Khan and Ors. ..Applicants.
Versus
State of Maharashtra & Others. ..Respondents.

Mr. Shivraj Kunchge i/b Altaf Khan for the Applicants.
Mr. J. P. yagnik, APP for the State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
Date : **March 27, 2017.**

P. C. :

1. Heard the learned Counsel appearing for the Applicant and learned APP for the State. Application is filed to recall the order dated 4th October 2016 passed in above writ petition and also to restore earlier order dated 11th August 2015.

2. The above writ petition was filed for quashing the proceedings of FIR bearing CR No. 329 of 2015 registered with Wadala TT Police Station, Mumbai for the offence punishable under sections 326 and 323 read with 34 of the Indian Penal Code, 1860. Quashment of FIR was sought by consent. By the order dated 11th August 2015 we quashed the said FIR by consent subject to the Applicants paying cost of Rs.5,000/- to TATA Memorial Hospital within the period of two weeks from the date of order.

3. On 4th October 2016, writ petition was placed before the

Court at the instance of Registry as the Applicants did not furnish / produce copy of the receipt acknowledging payment of cost to TATA Memorial Hospital, as directed in the order dated 11th August 2015. On that day, nobody appeared on behalf of the Applicants. Therefore, on the basis of submission of the Registry that the Applicants have not produced the receipt for payment of costs to TATA Memorial Hospital, we recalled the order dated 11th August 2015 and directed Wadala TT Police Station to proceed with investigation of the subject FIR.

4. Today, the learned Counsel appearing for the Applicant submitted that as directed in the order dated 11th August 2015, the costs was paid within the stipulated time, i.e., on 18th August 2015. In support of his contention, he placed on record documents at Exhibit-C. Documents indeed support the contention of the learned Counsel. However, the learned Counsel failed to produce within time the copy of those receipts in the Registry.

5. The fact remains that payment of costs was made to TATA Memorial Hospital within the stipulated period as per the order dated 11th August 2015. We, therefore, recall the order dated 4th October 2016 and restore the order dated 11th August 2015. Application stands disposed of.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]