

Nalawade

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.159 OF 2017

Navin Kumar C. Tiwari & ors. ...Applicant.
vs.
Union of Territory of Daman ...Respondent.

Mr. Rajendra Sorankar for the Applicant.
Mrs.P.H. Kantharia, Special PP for Respondent No.2.
Mrs. Rutuja Ambekar, APP. for the State.

CORAM: A.S.GADKARI, J.
DATE : 21st September, 2017

P.C.

1. The present application under Section-482 of the Cr.P.C. is for the following reliefs:-

a) This Hon'ble Court be pleased to order and issue appropriate order and direction inter alia calling for recording and proceedings in Sessions Case No.24 of 2016 pending on the file of Special Court at Silvassa and after going through the material on record this Hon'ble Court be pleased to order and direct to transfer of Sessions Case No.24 of 2016 to any other Court.

b) That this Hon'ble Court be pleased to order and direct Court taking up the case in Sessions Case No.24 of 2016 to re-examine the witnesses i.e. PW1, PW-2 and PW-3 viz. Ms. Anju Nara Sultan Ahmed, Mr. Hitesh Babu Sonawane and Dr.Shalesh Arlekar respectively and allow/afford reasonable opportunity to the petitioners to cross examine them.

2. The learned Special PP on instructions submitted

that as a matter of fact the prayer clause (a) as of today does not survive, for the reason that the concerned Judge against whom grievance is made by the applicant has already been transferred and new Judge has assumed charge and seized of Sessions Case No.24/2016. In view thereof, the prayer clause (a) as of today does not survive.

3. As far as prayer clause (b) is concerned, it appears from the record that the applicant at the first instance has not preferred application under Section 311 of the Cr.P.C. in the Trial Court for re-examination of the concerned witnesses. According to me it is necessary for the applicant to file an application under Section 311 of the Cr.P.C. in the Trial Court at the first instance. By reserving the liberty of the applicant to file an application before the Trial Court, the present application is disposed off.

4. Disposed off with the aforesaid liberty.

(A.S.GADKARI, J.)