

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 385 OF 2017
IN
CRIMINAL APPLICATION (APL) NO. 1037 OF 2016**

Mr. Pramod R. Panse ... Applicant
V/s.
Mr. Rohinton Jamshedji Mehta & Ors. ... Respondents

**WITH
CRIMINAL APPLICATION NO. 384 OF 2017
IN
CRIMINAL APPLICATION (APL) NO. 1055 OF 2016**

M/s. Paranjape Scheme & Ors. ... Applicants
V/s.
Mr. Rohinton Jamshedji Mehta & Ors. ... Respondents

**WITH
CRIMINAL APPLICATION NO. 386 OF 2017
IN
CRIMINAL APPLICATION (APL) NO. 1038 OF 2016**

Shri Sudhir Shankar Sable & Ors. ... Applicants
V/s.
Mr. Rohinton Jamshedji Mehta & Ors. ... Respondents

Mr. Prasad B. Kulkarni for the Applicants.
Mr. Archit Jayekar a/w Mr. R. Jhaveri i/b Jayekar & Partners for
Respondent No.1.

**CORAM : ANOOP V. MOHTA AND
RAVINDRA V. GHUGE, JJ.
DATE : 3rd MAY, 2017.**

ORDER :

1 Criminal Application No.386 of 2017 was not on board.
Taken on board.

2 The Applicants in these Applications, submit that the conditional order dated 17.02.2017 was not complied with and as a consequence of which the original proceedings Criminal application No. 1037, 1038 and 1055 of 2016 were dismissed.

3 We have considered the submissions of the learned counsel for the Applicants and the learned counsel on behalf of the contesting Respondent.

4 By an order dated 11.01.2017, this Court had permitted the original Applicants to amend their applications for incorporating the challenge to the First Information Report. Amendment was to be carried out within two weeks from the date on which the order is uploaded. The original applications were, therefore, posted on 17.02.2017 for fresh admission.

5 It is informed that the order dated 11.01.2017 was not complied with. Ad-interim relief directing that the re-investigation shall not proceed, was granted in the said order dated 11.01.2017. Learned counsel for the Applicants submits that it was on account of inadvertence on his part that the amendment could not be carried out. Consequently, this Court by an order dated 17.02.2017 granted further time to the Applicant. It was mentioned in the order that if the amendment is not carried out, the applications shall stand dismissed for non-prosecution without further reference to the Court.

6 It is stated by the learned counsel for the Applicants, who has himself filed the application and tendered his verification, that it was on account of his mistake that the amendment was not be carried out. 40 days delay has been caused in filing these applications which is sought to be explained in the memo of the application.

7 Learned counsel for the contesting Respondent No.1 has vehemently opposed this application on the ground that the Applicants have failed to carry out the amendment and hence no

leniency should be shown considering the failure to carry out the amendment. It is further contended that the reasons cited are not convincing and hence these applications be rejected.

8 Having considered the submissions of the learned Advocates for the respective sides and in the light of the fact that the learned counsel for the Applicants has taken the blame on himself for having committed the mistake of not carrying out the amendment forthwith, we are inclined to allow these applications.

9 The Applications are, therefore, allowed. The delay of 40 days is condoned. As such, the office order dated 05.04.2017 is set aside and the Criminal Application Nos.1037, 1038 and 1055 of 2016 are restored to the stage at which they were dismissed. Consequentially, the ad-interim relief granted by order dated 11.01.2017 is restored.

10 Needless to state, the Applicants shall carry out the amendment forthwith. Statement is made by the Applicants that the amendment would be carried out on or before the

5th day of May 2017. If such amendment is carried out, list these three Applications for fresh admission on 12.06.2017.

11 It is clarified that if the above directions are not complied with, this order shall stand cancelled. These three Applications filed for restoration would then stands rejected and the office Order dated 05.04.2017 dismissing the three Criminal Applications would stand restored.

(RAVINDRA V. GHUGE, J.)

(ANOOP V. MOHTA, J.)