

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Application No. 685 OF 2016

Priti Mihir Thakker @ Priti Dhirajlal Ruparel	...Applicant
<i>Versus</i>	
The State Of Maharashtra	
And Ors	...Respondents

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Mr.Rahul A. Hande, Advocate for the Applicant.
 Mr.S.V. Gavand, APP, for respondent No.1 State.
 Mr.Ruchir U. Dholakia, Advocate i/b. J.M. Raut, for Respondents No.2 to 5.
 Mr.R.S.Apte, Senior Advocate a/w. Saurabh Oka, for Respondent No.6.

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CORAM : R. G. KETKAR, J.

DATE : 01st AUGUST, 2017

P.C.

1. Heard Mr.Rahul Hande, learned counsel for the applicant, Mr.S.V. Gavand, learned A.P.P. for respondent No.1-State, Mr.Ruchir Dholakia, learned Counsel for respondents No.2 to 5 and Mr.R.S. Apte, learned Senior Counsel for respondent No.6.

2. As the regular Court presided over by Hon'ble Mr. Justice A.K. Menon passed 'not before me' order, present application is moved before me as per the Administrative order passed by the Hon'ble the Chief Justice.

3. Initially this application under Section 482 of Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') was filed only against

respondents No.1 to 5. When the matter was heard on 30.6.2016, at the request of learned Counsel for the applicant, leave to amend the cause title of the application to implead Advocate Prashant Kulkarni as a necessary party was sought. This Court granted leave to amend. Accordingly, respondent No.6 is impleaded in this application. Mr. Hande fairly stated that though respondent No.6 is impleaded as a party respondent, no relief is sought against him. He further states that Mr.Dhirajlal Ruparel, the Power of Attorney Holder of the applicant who is her father is present in the court. Mr.Hande has tendered a photo copy of the Special Power of Attorney dated 28.6.2016, which is taken on record and marked 'A', for identification. Mr. Hande has also tendered a photo-copy of his Aadhaar Card and PAN Card, which is taken on record and marked 'B', for identification. Upon taking instructions from him, Mr. Hande seeks permission to delete respondent No.6 from this application. On the oral application made by Mr. Hande leave to delete respondent No.6 is granted. Amendment shall be carried out forthwith.

4. By this application under Section 482 of Cr.P.C., the applicant has challenged the order dated 2.5.2016 passed by the Additional Sessions Judge, City Civil and Sessions Court, Greater

Mumbai in Misc. Application No.164/2016 in A.B.A. No.79/2016 along with Misc. Application No.81/2016. By that order, the learned Sessions Judge rejected the application filed by the applicant for taking action against respondents No.2 to 5 (accused) under Section 340 of Cr.P.C. for producing fake notice along with A.B.A. No.79/2016.

5. Mr. Dholakia raised preliminary objection about maintainability of application under Section 482 of Cr.P.C. He submitted that under Section 341 of Cr.P.C., the applicant has an equally efficacious alternate statutory remedy of filing an appeal. Realizing this position, Mr. Hande seeks permission to withdraw this application with liberty to file appeal under Section 341 of Cr.P.C.

6. In view thereof, on the motion made by Mr. Hande, application is allowed to be withdrawn with liberty as prayed for. It is made clear that I have not expressed any opinion on the merits of the case. All contentions of the parties on merits are expressly kept open. Order accordingly.

(R. G. KETKAR, J.)