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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.926 OF 2014**

Vishwajeet Gauri Gaurishankar Roy ... Applicant

vs.

The State of Maharashtra & Anr. ... Respondents

**WITH
CRIMINAL APPLICATION NO.957 OF 2014**

Mr. I.S. Thakur i/b. Global Juris Consults for the Applicant in APL-926/14.

Mr. S.S. Sayyed & H.S. Sayyed for the Applicant in APL/957/2014.

Mr. S.V. Gavand, APP, for the Respondent-State.

Mr. R.T. Lalwani i/b. Prakash Mahadik for Respondent no.2.

CORAM : A.K. MENON, J.

DATED : 6th JULY, 2017

P.C.

1. By this application, the applicant seek to challenge an order dated 20th August, 2014 on an application made on behalf of the applicant under Section 239 of the Code of Criminal Procedure but primarily challenging the jurisdiction of the Court. It is the case of the applicants in application no.957 of 2014 who are the parents in law of the original complainant inter alia that the Court had no territorial jurisdiction and the proceedings may be dropped. Furthermore, it was contended that the complaint does not reveal any offence having been committed by the applicants. The impugned order rejected the application. The petition has been pending for admission for sometime and pursuant to an ad-interim order dated 8th July, 2015 in Application no.957 of 2014 and 13th July, 2015 in Application

no.926 of 2014 further proceedings were stayed.

2. Today both counsel for the applicants and the counsel for respondent no.2 are agreed that the petitions may be disposed of finally at the stage of admission. Having heard the learned counsel for the parties and the application no.926 of 2014 being filed by the husband and the order being common, it will be appropriate that the applicants in these applications make a fresh application before the concerned Magistrate seeking discharge on merits as well as on the issue of jurisdiction. Considering the age of the applicants, the applicants are entitled to make an application for exemption which will be considered by the Magistrate in accordance with law. Since the application is based on facts already on record, the Magistrate may not insist on the presence of the applicants who said to be aged are residents of Darbhanga Bihar. The Magistrate will also consider the availability of the applicant in application no.926 of 2014 in the country since he is presently employed in Qatar.
3. Accordingly, I pass the following order:-
 - (i) The impugned order dated 20th August, 2014 is set aside.
 - (ii) The applicants are at liberty to apply for discharge as aforesaid before the Magistrate who will consider the applications in accordance with law without being influenced by any observations in this order.
 - (iii) In the circumstances, the applications if any shall be made within a period of six weeks from today.

(iv) In the meantime, interim protection shall continue upto 30th August, 2017.

(v) If the applicants seek exemption the same will be considered in the light of observations in para 2 above.

(A. K. MENON, J.)