

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3159 OF 2018

Gaurav Vinod Kumar Goel and others	Petitioners
versus	
M/s.Rohit and Company and another	Respondents

Mr.Prashant Phophale I/by PMH Law for petitioners.
Mrs.M.R.Tidke, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 24th July 2018

PC :

1. The petitioners are aggrieved by order dated 15th June 2018 passed by Court of Metropolitan Magistrate, 70th Court, Sewree, Mumbai in CC No.1638/SS/2015 issuing warrant against petitioners. The petitioners are facing prosecution under section 138 of Negotiable Instruments Act. Pursuant to the receipt of summons the petitioners appeared before the Court. They were also represented by an advocate. Thereafter from time to time the petitioners remained present before the Trial Court. However, the warrant was issued on 16th June 2018 although the matter was not due for hearing on that day. Thereafter the petitioners preferred an application before the Trial Court for cancellation of warrant. However, learned Magistrate adjourned the said application without granting stay to the execution of warrant.

2. It is submitted that the Court was insisting for the presence of petitioners for adjudicating the said application. Learned counsel for

petitioners relies on the decision of this Court in Criminal Writ Petition No.4429 of 2013, dated 24th December 2013 (Arunkumar N. Chaturvedi Vs. The State of Maharashtra and another) wherein it was observed that the warrant can be cancelled even in the absence of accused before the Court in the event the application is made through advocate.

3. It is submitted that next date before the Trial Court is 26th July 2018 and the application for cancellation of warrant is posted for hearing on that day. In the circumstances the execution of warrant issued by the Trial Court is stayed till 3rd August 2018. The Trial Court shall decide the application for cancellation of warrant on the next date of hearing. The petitioners shall remain present before the Trial Court on that date. Writ Petition No.3159 of 2018 is disposed of.

(PRAKASH D. NAIK, J.)

MST