

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

CRIMINAL APPLICATION NO. 894 OF 2017

Shri Jaywant Raghunath Gurav & 13 Others. ... Applicants.

V/s.

Sham Moshe Varsulkar & Anr. ... Respondents.

Mr. Shirish Gupte, Sr. Advocate a/w. Tejas Hilage i/by Ashish Sawant for the Applicants.

Mr. Kuldeep S. Patil, Advocate for the Respondent No.1.

Mr. H. J. Dedhia, APP for the State.

CORAM : REVATI MOHITE DERE, J.

DATE : FEBRUARY 21, 2018

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicants have impugned the order dated 01.08.2017 passed by the learned Additional Sessions Judge, Mangaon, Raigad below Exhibit-1 in Cri. Misc. Application No. 40 of 2017, by which the applicants' application for restoration of their criminal Revision Application No. 25 of 2013 was dismissed.

3 Perused the papers. Being aggrieved by the order dated 16.07.2013 passed by the learned Judicial Magistrate, First Class, Pali, issuing process as against the applicants (accused) for the alleged offences punishable under sections 415, 416, 417, 418, 419, 420, 406 r/w. 34, 120(B) of Indian Penal Code, the applicants challenged the same in the Sessions Court, by filing criminal revision application no. 25 of 2013. It appears that the applicants and their Advocate remained absent before the Revisional Court and as no steps were taken by them, the Revision Application was dismissed for want of prosecution, by the learned Sessions Judge vide order dated 15.03.2014.

4 Being aggrieved by the order dated 15.03.2014, the applicants filed Criminal Application No. 683 of 2015 in this Court. This court (Coram : Smt. R. P. SondurBaldota, J.) vide order dated 13.02.2017 was pleased to pass the following order :

“P.C.:

1 At the request of Mr. Kotwal, the learned advocate appearing for the applicants, the Criminal Application is allowed to be withdrawn with liberty to the applicants to apply to the Sessions Court for restoration of it's revision application.”

5 Pursuant to the order dated 15.02.2017 passed by this court, the learned Additional Sessions Judge heard Criminal Application, being Criminal Misc. Application No. 40 of 2017, seeking restoration of Criminal Revision Application No. 25 of 2013 and after hearing the parties was pleased to dismiss the said Criminal Misc. Application No.40 of 2017, seeking restoration of Criminal Revision Application No. 25 of 2013.

6 The learned Judge has observed that the matter is kept for evidence before charge, before the learned Judicial Magistrate, First Class, Pali and accordingly, was of the opinion that the case would be further delayed before the trial Court. Learned senior counsel for the applicants assures that the applicants' Advocate will remain present on the next date before the learned Sessions Judge and that he will proceed with the hearing of the revision application on merits. Only by way of indulgence and in the interest of justice, the impugned order dated 01.08.2017 passed by the Additional Sessions Judge, Mangaon, Dist. Raigad, is hereby quashed and set aside, on the condition that the applicants deposit Rs. 25,000/- with the Tata Cancer Institute (Children's Ward) within two weeks from today. A copy of the receipt to be produced before the learned Sessions Judge.

7 Parties to appear before the learned Sessions Judge on 15.03.2018 on which date learned Judge shall give a date convenient to it. The hearing of criminal revision application is expedited.

8 All contentions of the parties are kept open.

9 Petition is disposed of in the above terms.

All parties to act on an authenticated copy of this order duly issued by the Registry of this Court.

(REVATI MOHITE DERE, J.)

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