

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPP) NO.761 OF 2018
IN CRIMINAL APPLICATION (APL) NO. 238 OF 2017

(Sachin Harichandra Pawar and others vs. The State of Maharashtra and another)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri M.N. Ali, Advocate for applicants.

Ms. H.N. Jaipurkar, Additional Public Prosecutor for non-applicant no.1.

CORAM : P.N. DESHMUKH AND
M.G. GIRATKAR, JJ.

DATED : AUGUST 1, 2018

Heard Shri Ali, learned Counsel for applicants and Ms. Jaipurkar, learned Additional Public Prosecutor for non-applicant no.1.

This application is filed for permission to withdraw amount of rupees twenty thousand.

Shri Ali, learned Counsel for applicants, submits that the said amount was deposited by applicants with Registry of this Court in pursuance of order dated 27/4/2017.

Perusal of order dated 27/4/2017 reveals that applicants were directed to deposit the said amount to show their bonafides. It was further observed in the said order that if no substance is found in the challenge, that amount can be made over to non-applicant no.2 towards costs of litigation.

It is submitted by Shri Ali, learned Counsel

for applicants, that though application is rejected on merits vide order dated 21/11/2017, applicants would be entitled to claim back the said amount as non-applicant no.2 had not contested the application and as such, there was no reason for releasing said amount in her favour towards costs of litigation.

We find some substance in the contention of learned Counsel for applicants as record reveals that non-applicant no.2 did not find it necessary to contest the application, which came to be rejected on merits. On considering order dated 27/4/2017 by which applicants were directed to deposit Rs.20,000/-, we find that intention for passing the same was two-fold - firstly for applicants to show their bonafides for filing application for quashing of first information report and secondly, in the event application is rejected, amount deposited can be made over to non-applicant no.2 towards costs of litigation. Admittedly, non-applicant no.2 did not contest the application.

In the circumstances, we find no reason to give any amount out of rupees twenty thousand deposited by applicants with the Registry of this Court to non-applicant no.2 towards costs of litigation and since application was rejected on merits, applicants are also found to have failed to show their bonafides for quashing of first information report. Therefore, we direct that out of amount of rupees twenty thousand, amount of rupees ten thousand only be refunded back to applicant no.1 Sachin Pawar, which otherwise would have gone to share of non-applicant no.2 and balance

amount of rupees ten thousand shall be paid to the High Court Bar Library, Nagpur.

The application is disposed of in the above terms.

JUDGE

JUDGE

khj

Kamal
Hundraj
Jeswani

Digitally signed
by Kamal
Hundraj
Jeswani
Date:
2018.08.03
12:19:19 +0530