

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 222 OF 2019

Dr. Mrs. Jayashree Atul Chemburkar & Anr.....Applicants

VERSUS

The State of Maharashtra & Anr. Respondents

Ms. Cristina Carlos, Advocate for Applicant.

Mr. A.R. Patil, APP for State.

Mr. Devendranath S.Joshi, Advocate for Respondent No. 2.

CORAM : S. S. SHINDE J.

DATED : 6th June, 2019.

P.C.

1. Heard learned counsel appearing for the applicants and learned counsel appearing for respondent no. 2. Learned counsel appearing for respondent no. 2 on instructions submits that the proceedings pending before the Court below is at the stage of recording evidence of complainant. He further submits that, applicants have been belatedly approached this Court after three years from the date of filing complaint.

2. Learned counsel appearing for applicants submits that, the applicants are senior citizen and they are facing serious health problems and therefore they may not be in a position to attend

the proceedings before the Court below. It is submitted that there was no case for issuance of process against the present applicants. It is submitted that, respondents have lost before the Civil Court and now futile attempt has been made by filing criminal complaint against the applicants. Therefore, relying upon the averments in the application and grounds taken therein learned counsel appearing for the applicant prays that application may be allowed.

3. Upon appreciating the rival contentions, and the fact that the applicants have belatedly approached this Court after three years from the date of their appearance before the Trial Court and now the stage of said proceedings is for recording of evidence, this court is not inclined to invoke provisions of Section 482 Crpc and stall the proceedings pending before the Trial Court. If applicants are facing problems to attend the court proceeding before the Trial Court it would be open for them to file an appropriate application for exemption from appearing before the said Court. In case such application is filed by applicants, the concerned court to consider it liberally keeping in view the fact that applicants are senior citizen and facing health problems. Concerned Court can also liberally consider

the prayer of the applicants for their exemption to appear on the dates fixed by the said court when the presence of the applicants is absolutely not necessary. In the light of above observations, application stands disposed of.

4. Needless to observe that the advocate engaged by the applicants shall represent them before the said Court on all the dates fixed by the Trial Court.

[S.S. SHINDE, J.]