

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

CRIMINAL APPLICATION NO. 411 OF 2019

Bhausahab Vishwanath Vairagar

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

Mr. Sachin H. Deokar for the applicant.

Mr. N.B. Patil, APP for Respondent – State.

CORAM : S.S. SHINDE, J.

DATE : 19th AUGUST 2019

P.C.:

1. This application takes an exception to the order passed by the Additional Sessions Judge, Malshiras below Exh. 19 in Criminal Misc. Application No. 176/2018 on 07th January 2019 thereby confirming the order passed by the learned Judicial Magistrate First Class, Malshiras in Criminal Application No. 344 of 2018.

2. Heard counsel appearing for the applicant and learned APP appearing for Respondent – State.

3. Upon perusal of the order passed by the Addl. Sessions Judge, Malshiras it appears that the present applicant filed Criminal

Misc. Application No. 344/2018, and in the said application the prayer of the applicant to handover the possession of vehicle in question was not entertained and said application came to be rejected. It further appears that, the applicant filed second Application taking recourse to section 457 of the Cr.P.C. for same relief. The said application has also been rejected by the Sessions Court holding that application under Section 457 of the Cr.P.C. was not maintainable. It appears that, order passed by the learned Judicial Magistrate First Class, Malshiras on 18th August, 2018 in Criminal Misc. Application No. 344/2018 has attained finality.

4. Petitioner is so advised petitioner can take the exception to that order. However, as rightly held by the Sessions Court the second Application for the same relief was not maintainable. Hence, in that view of the matter Criminal Application stands rejected.

5. However, the applicant is at liberty to file the appropriate proceedings challenging the order dated 18.08.2018 passed by the Learned Judicial Magistrate First Class, Malshiras in Criminal Application No. 344 of 2018.

(S.S. SHINDE, J.)