

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1909 OF 2023
IN APEAL/40/2023

Shaikh Irfan Shaikh Salim and others .. Applicants

Versus

The State of Maharashtra .. Respondent

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Mr. A. Z. Biyabani, Advocate for applicants.
Mr. S. D. Ghayal, APP for the respondent – State.

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CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.

DATE : AUGUST 04, 2023.

ORDER :-

. Learned Registrar (Judicial) has filed report and it appears from the said report that it is a mistake of the office to list Criminal Appeal No.40 of 2023. It is submitted that since Criminal Appeal Nos.50 of 2023 and 143 of 2023 were also arising out of the same crime registered with the same police station it was tagged with the other two appeals and they were got circulated by the learned Advocate representing the appellants therein. It is specifically stated that in Criminal Appeal No.40 of 2023, the office has not made any endorsement on the farad sheet, but as per the prevailing practice, the said appeal came to be tagged with the other two appeals. The learned Advocate for the appellant – applicant submits that he had not got the matter circulated, but it was

the Advocate of the other two appeals, who had got the matter circulated. It appears that in spite of not getting the matter circulated, merely because it was tagged with other two appeals, the order of issuing notice was passed and it appears to be in absence of the learned Advocate for the appellants. We are not approving the practice that is being followed by the office. In fact, in such matters, unless there is specific order of tagging one matter with the another, the Section officer or the Head of the Department on his own has no authority to tag it.

2. It appears that the Criminal Appeal No.40 of 2023 came to be dismissed due to the absence of learned Advocate for the appellants. Under such circumstance, the application deserves to be allowed. Accordingly, the application stands allowed.

3. The order passed by this Court in Criminal Appeal No.40 of 2023 on 27.04.2023 is hereby set aside and the said appeal stands restored.

4. Before parting, we observe that the learned Registrar (Judicial) to reconsider the practice, which is going on and take remedial measures so that such incident does not happen in future.

[ABHAY S. WAGHWASE, J.]

[SMT. VIBHA KANKANWADI, J.]

scm