

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 884 OF 2023
IN
CRIMINAL APPEAL NO. 1518 OF 2004

Omprakash Shatrughan Prasad Singh .. Applicants
and ors

Versus

The State of Maharashtra & Anr .. Respondents

...

Mr.Omkar Nagwekar for the applicants.
Ms. P.N. Dabholkar, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 9th MARCH 2023

P.C:-

1 The applicant no.1 and respondent no.2 are present
in the Court.

2 My attention is invited to the order dated 27/2/2023
when this Court recorded that the matter is settled between the
parties and no useful purpose will be served by keeping the
Appeal pending on the file of this Court. However, since certain
technical difficulty appear, this Court directed the vakalatnama to
be filed on behalf of appellant nos.1 and 2, since it is informed
that appellant no.3 is no longer alive.

3 On hearing the learned counsel for the appellant and on perusal of the Appeal Memo along with the Record and Proceedings, it can be seen that the present Appeal is filed by the three appellants, being aggrieved by the direction issued by the Special Judge in SCST Special Case No.10/2001, while acquitting the accused of the offences punishable under Section 498A r/w Section 34 IPC and Section 3(1)(x) and (x)(v) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the following direction was issued :

“Gold ornaments – Article nos.1 to 3 shall be returned to the complainant PW 1 – Anita Omprakash Singh after the expiry of the period of appeal”

The above direction being issued on 8/10/2004 is the cause for the Appeal being instituted by the appellants on 13/12/2004.

4 A ground is specifically raised in the Appeal to the effect that the Sessions Judge has erred in issuing such a direction, since the controversy over the title to the ornaments can only be resolved by the Civil Court of competent jurisdiction and the Court could not have passed a direction u/s.442 of the Code of Criminal Procedure.

5 While the Appeal was pending for adjudication, for almost two decades now, cohabitation between the appellant and respondent no.2 and the parties who are present in person before

the Court, categorically state that they are residing together as on date.

In the wake of the above, I see no difficulty in return of the gold ornaments to respondent no.2 which are presently in the custody of the Special Judge, Greater Mumbai.

This is however, subject to the formal application being preferred before the Special Court, which shall be decided by the learned Judge forthwith.

Since nothing survives in the Appeal, which was only restricted to a particular direction, and since the contesting parties are residing together, the Appeal stands disposed off.

(SMT. BHARATI DANGRE, J.)