



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 CRIMINAL APPLICATION NO.4127 OF 2024
IN APPLN/1538/2024

PAWANKUMAR DILIP PATIL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

WITH
CRIMINAL APPLICATION NO.1538 OF 2024

...

Mr. M. S. Sonawane, Advocate for Applicants.
Mr. N. R. Dayama, APP for Respondent No.1/State.

...

**CORAM : SMT. VIBHA KANKANWADI &
R. W. JOSHI, JJ.**

DATE : 21 NOVEMBER 2024

ORDER :

1. Criminal Application No.4127 of 2024 has been filed for recalling of order passed in Criminal Application No.1538 of 2024 in Criminal Application No.2679 of 2023.

2. Issue notice to the respondents. Learned APP waives notice for respondent No.1. Learned Advocate Mr. H. P. Randhir holding for learned Advocate Mr. Y. V. Kakde waives notice for respondent No.2.

3. It appears that the present applicants have filed Criminal Application No.1538 of 2024 for recalling and restoring the

Criminal Application No.2679 of 2023 to its original stage. By order dated 04.09.2024, this Court directed the applicants to supply spare copies for serving the unserved respondents within two weeks. It was a conditional order stating that in case of failure on the part of the applicants to supply the spare copies within stipulated time, the application would stand dismissed automatically without further reference to the Court.

4. Learned Advocate for the applicants now submits that instead of supplying the copy of Criminal Application No.1538 of 2024, he supplied the copies of Criminal Application No.2679 of 2023. Under the said circumstance, the conditional order became operative. Learned Advocate for the applicants submits that it was a genuine mistake.

5. Taking into consideration the submissions, Criminal Application No.4127 of 2024 stands allowed and disposed of. The order passed by this Court on 04.09.2024 in Criminal Application No.1538 of 2024 stands recalled.

6. Criminal Application No.1538 of 2024 stands restored to its original stage.

7. Now, since respondent No.2 has caused appearance, we may also take up Criminal Application No.1538 of 2024 for consideration.

8. Criminal Application No.1538 of 2024 was filed for recall of conditional order passed in Criminal Application No.2679 of 2023 on 05.02.2024. By the said order, when already there was an order permitting the applicant to carry out the amendment and annex copy of the charge-sheet, it was extended as a last chance for four weeks and it was then stated that if the compliance is not made, the matter would stand dismissed automatically without further reference to the Court. It appears that by order dated 20.02.2024 that time was extended by one week. However, even during that period also there was no compliance and, therefore, it was treated that the Criminal Application No.1679 of 2023 stood dismissed automatically.

9. Learned Advocate for the applicants is now ready to carry out the amendment and he submits that the charge-sheet is ready with him. We allow the application i.e. Criminal Application No.1538 of 2024 also in terms of prayer clause 'B'. However, this is subject to deposit of cost of Rs.2000/- to the High Court Legal

Services Sub Committee, Aurangabad within a period of one week and also subject to removal of office objections within a period of one week.

10. We further clarify that in case of failure to abide by the said condition and time schedule, the order dated 05.02.2024 passed in Criminal Application No.2679 of 2023 would stand revived.

[R. W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm