

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

CRIMINAL APPLICATION NO. 1693 OF 2024

Chandrakant Vishnu Sawant & Ors.

.. Applicants

v/s.

State of Maharashtra & Anr.

.. Respondents

Ms. Shubhangi Parulekar for the Applicants.

Mr. Y.M.Nakhwa, APP for the Respondent-State.

CORAM : SHYAM C. CHANDAK, J.

DATE : 10th DECEMBER, 2024.

P.C. :

. Present Application seeking to quash and set aside the impugned Order dated 21st October, 2024 passed by the learned Special Judge Vaduj, District Satara below Application Exhibit 133 in Special Case No.29 of 2020.

2) Heard learned Advocate Mr.Parulekar for the Applicants and learned APP Mr. Nakhwa for the Respondent-State.

3) **Rule.** Rule is made returnable forthwith. Heard finally with the consent of the parties.

4) The Applicants are Accused Nos.2 and 3 in the aforesaid case and facing prosecution for the alleged offences punishable under Sections 143, 147, 384, 385, 452, 120 (B) of Indian Penal Code and under Sections 3 (1) (ii), 3 (2), 3 (4) of MCOC Act. On 8th October, 2024 after the examination-in-chief of P.W.4-Mr.Harishchandra Mane was over, the

Advocate for Accused No.1, 4 to 6 and Advocate for the present Applicants were absent. However, all the Accused Nos.1 to 6, in person, declined to cross-examine the said P.W.4. Therefore, the learned Judge of the trial Court closed the evidence of P.W.4.

5) It appears that, on the same day i.e. on 8th October, 2024 the Applicants and their co-accused sought for an adjournment filing their Applications at Exhibit-132 and 131 respectively. Both the applications were rejected by a common Order and “No Cross” Order was passed. Thereafter, the Applicants filed an Application at Exhibit 133 on the ground that on 8th October, 2024 their Advocate on record was unable to attend before the trial Court due to medical emergency. Therefore, the “No Cross” Order may be set aside and the Applicants be given an opportunity to cross-examine the witnesses. However, the learned Special Judge of the trial Court rejected the Application Exhibit 133, mainly for the reason that the Applicants were non-cooperative.

6) Ms. Parulekar, learned Advocate for the Applicants states that she herself is appearing in the said matter on behalf of the Applicant. She herself was unable to attend before the trial Court on 8th October due to medical emergency, for which the Applicants cannot be denied an opportunity to cross-examine the said P.W.4. Ms. Parulekar undertakes that, she will cross-examine the P.W.4 on the due date given by the trial Court. On instructions, she states that the Applicants are ready to pay costs of Rs.5000/- to the State, for recalling the P.W.4. Said statement is

accepted as an undertaking to this Court.

7) In view thereof the Application deserves to be partly allowed.

Hence, following Order:

ORDER

i) The impugned Order dated 21st October, 2024 passed by the learned Special Judge Vaduj, District Satara below Application at Exhibit 133 in Special Case No.29 of 2020, is quashed and set aside.

ii) The Application at Exhibit 133 is allowed subject to payment of costs of Rs.5000/-, to the State.

iii) The Applicants and their Advocate on record shall regularly attend before the trial Court and co-operate for expeditious hearing and disposal of the said case.

iv) The Applicants and their Advocate on record are directed not to seek unwanted adjournment in the said case.

v) Present Application is allowed in aforesaid terms. Rule is made absolute.

(SHYAM C. CHANDAK, J.)

JYOTI
RAJESH
MANE

Digitally signed
by JYOTI RAJESH
MANE
Date: 2024.12.14
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