

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3433 OF 2024
IN
CRIMINAL APPEAL NO.587 OF 2024

Rish Purushottam Sarawagi & Ors. Applicants

V/s.

State of Maharashtra & Anr. Respondents

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Mr.Rajiv Patil a/w Mr.Viral Rathod, Ms.Aaswad P., Mr.Vishwatej
Jadhav i/b Mr.Tushar Dube, for the Applicants.

Ms.Sangeeta D. Shinde, APP, for Respondent-State.

Mr.Avinash S. Ovhal, for Respondent No.2-Original
Complainant.

CORAM : SHIVKUMAR DIGE, J.

DATE : 11th NOVEMBER 2024

P.C:-

. Heard learned Senior counsel for the Applicant,
learned APP and learned counsel for Respondent No.2-Original
Complainant.

2. The learned counsel for Respondent No.2 has
tendered affidavit of Complainant Mrs.Soni Rish Sarawagi. It is
taken on record and marked 'x' for identification.

3. The learned Senior counsel for the Applicant's and

learned counsel for Respondent No.2 submitted that, the matter is settled between the parties and in view of the settlement the conviction awarded against the Applicant's by the learned Sessions Judge, Belapur be set aside and Applicant's be acquitted from charges levelled against them.

4. The Applicants are praying for to quash and set aside judgment and order dated 8th May 2024 of conviction passed by learned Sessions Judge for offences under Section 493, 494, 495 read with Section 34 of the Indian Penal code ('IPC' for short) in Sessions Case No.891 of 2023 against the Applicant's and they be acquitted from above referred offences.

5. It is contention of the learned Senior counsel for Applicant's that, the Applicants have preferred Criminal appeal No.587 of 2024 challenging the impugned judgment and order passed by the learned Sessions Judge, Belapur, challenging their conviction. The learned Senior Counsel further submitted that, the Complainant/Respondent No.2 is wife of Applicant No.1 and daughter-in-law of Applicant Nos.2 and 3. Matter is settled between the parties and both the parties have filed Consent

Terms before the JMFC in DV Proceedings and the said proceedings filed by Complainant/Respondent No.2 has been withdrawn. Hence, requested to allow the Application.

6. The learned counsel for Respondent No.2/Complainant has no objection to allow the Application.

7. The learned APP submitted that appropriate order be passed.

8. I have heard all learned counsel.

9. The Applicant's have been convicted by learned Sessions Judge in above referred Sections of I.P.C. The Appeal is preferred against the said judgment and order which is pending before this Court. During the pendency of this Appeal, the Applicant's have filed present Application to quash and set aside the conviction on the basis of the settlement with Respondent No.2-Original Complainant. There is no provision in Criminal Procedure Code to quash and set aside conviction order. This Court (Coram : M.J. Tahaliyani, J.) in the case of Wajir Lalbhai Shaikh & Ors.¹, has quashed the conviction of Applicants. The

1. Order dated 13th January 2015

ratio laid down in the above case squarely applicable to present case. Moreover, considering the relations between the Applicant's and Respondent No.2, she is wife of Applicant No.1 and daughter-in-law of Applicant Nos.2 and 3. I am inclined to allow the Application. Both the parties have agreed to withdraw all cases filed against each other. Considering these facts I pass following order.

ORDER

(i) The conviction awarded by the Sessions Judge, Belapur in Sessions Case No.891 of 2023 against the Applicants is hereby quashed and set aside. The Applicant's are acquitted from the offences under Section 493,494, 495 read with 34 of IPC.

(ii) In view of the above Criminal Appeal No.587 of 2024 is disposed of.

(iii) Criminal Application stands disposed of in the above terms.

(SHIVKUMAR DIGE, J.)