

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4265 OF 2024
IN
WRIT PETITION NO. 173 OF 2025

Smt. Malti Hanumant Khamkar & Ors.

...Applicants/
Petitioners

Versus

The State of Maharashtra & Anr.

...Respondents

Ms. Jagruti Nimbalkar i/b Mr. Suaraj B. Chakor, learned Advocate for the Applicants/Petitioners.

Ms. Pallavi N. Dabholkar, learned A.P.P. for the State/Respondent.

CORAM : ASHWIN D. BHOBE, J.
DATE : 24th MARCH 2026.

P.C. :

1. Heard Ms. Jagruti Nimbalkar, learned Advocate for the Applicants/Petitioners and Ms. Pallavi Dabholkar, learned A.P.P. for the State/Respondent.
2. By the present Interim Application, the Applicants have sought for the following substantive relief in terms of prayer clause 8(a) :-

“a. The present Interim Application be allowed and this Hon’ble Court be pleased to recall the order dated 01.09.2023 passed by this Hon’ble Court, whereby Criminal Writ Petition (St.) No. 12433/2023 was dismissed for failure to supply spare copies of the petition in the Registry and to remove all

office objections.”

3. Criminal Writ Petition No. 173 of 2025 was dismissed for non-compliance of the order dated 01.09.2023, passed by this Court, which reads as follows :-

“1. Issue notice to the respondent, returnable on 27th October, 2023.

2. Learned APP waives service for respondent no. 1.

3. In the meantime, all office objections if not removed, so also, copies are not supplied for effecting service on the respondents, the petition shall stand dismissed without further reference to the Court.”

4. Ms. Jagruti Nimbalkar, learned Advocate for the Applicants states that on account of inadvertent mistake on the part of office of the Advocate representing the Petitioners, the objections remained to be removed and the spare copy remained to be supplied to the Registry for issuance of notice to the Respondents. She submits that on account of the lapse on the part of office of the Advocate representing Petitioners, the Petitioners should not be denied of an opportunity of hearing of the Petition. She therefore requests that the proceedings be restored and the same be heard on merits. She refers and relies on the decisions of the Hon'ble Supreme Court and the High Court in the cases of ***Ashok Kumar v/s. New India Assurance Co. Ltd.***¹, ***Firm Jehtmal & Sons, through its Proprietor-Jethamal v/s. State of Rajasthan***² and ***Ajeet Singh Rathore S/o. Shri. Raju Singh Rathore v/s. State of Rajasthan and***

1. Civil Appeal No. 4758 of 2023 arising out of SLP (Civil) No. 25256 of 2018.

2. 2025 SCC OnLine Raj 3346.

*Others*³, in support of her contention that for the fault of an Advocate, the parties should not suffer.

5. Ms. Pallavi Dabholkar, learned A.P.P. for the State/Respondent submits that as the Advocate for Petitioners has owned the responsibility for non-compliance of the objections/supply of the spare copy as per the order dated 01.09.2023, she does not object to the recall of the order dated 01.09.2023 and to the restoration of Criminal Writ Petition No. 173 of 2025.

6. For the reasons stated in the Interim Application, the statement made today by Ms. Jagruti Nimbalkar, learned Advocate for the Applicants that the lapse in compliance of the order dated 01.09.2023 was on her part and the No Objection by Ms. Pallavi Dabholkar, learned A.P.P., a case is made out by the Applicants for indulgence. In view of the above, the dismissal order dated 01.09.2023 is recalled and Criminal Writ Petition No. 173 of 2025 is restored to its original file.

7. Ms. Jagruti Nimbalkar, learned Advocate for the Applicants states that all the objections notified or that may be notified in Criminal Writ Petition No. 173 of 2025, would be removed/cleared within a period of 4 weeks from today. She submits that upon removal of the objections, spare copy would be furnished to the Registry of this Court forthwith. Statement made by Ms. Jagruti Nimbalkar is accepted.

8. It is made clear that in the event the Petitioners fail to comply with the statements made hereinabove, Criminal Writ Petition No.

3. S.B. Civil Writ Petition No. 18308/2024 decided on 25.011.2024.

173 of 2025 shall be dismissed without reference to this Court.

9. In view of the above, Interim Application No. 4265 of 2024 is allowed in terms of prayer clause (a).

[ASHWIN D. BHOBE, J.]

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KRISHNA
KOTAWADEKAR

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by GITALAXMI
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Date:
2026.03.30
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