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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 426 OF 2026

IN

WRIT PETITION NO. 3389 OF 2025

Dineshray Chhotalal Desai & Anr. ... Applicants

V/s.

The State of Maharashtra & Anr. ... Respondents

Ms. Devyani Kulkarni, Advocate for Applicants.

Mr. Rayyan Shah i/b Mr. Aditya Thorat, Advocate for Respondent No. 2.

Mr. Sukanta Karmakar, APP for Respondent – State.

Mr. S. S. Sabale – PSI, Manikpur Police Station.

CORAM : ASHWIN D. BHOBE, J.

DATE : 13th FEBRUARY, 2026.

P.C. :

1. By the present Application, Applicants are seeking recall of the order dated 1st July, 2025 passed by this Court in Criminal Writ Petition No. 3389 of 2025.

2. Order dated 1st July 2025, passed in Criminal Writ Petition No. 3389 of 2025 reads as follows :-

“1) Issue notice to Respondent No.2, returnable on 12th

August 2025.

2) Learned Advocate for Petitioners is directed to supply spare copies of Petition in the Registry within a period of two weeks from today, failing which the Petition shall stand dismissed without further reference to this Court.

3) Stand over to 12th August 2025.

4) Till the returnable date, ad-interim relief in terms of prayer clause (b), qua the Petitioners.”

3. Ms. Devyani Kulkarni, learned Advocate for the Applicants, by referring to paragraph No. 3 of the Application, submits that it was due to an inadvertent oversight on the part of the Advocate's office that the spare copies of the Writ Petition were not supplied to the Registry within the period of two weeks as directed in the order dated 1st July, 2025. She has taken responsibility for the delay in supplying the spare copies.

4. Mr. Sukanta Karmakar, learned APP, submits that the Advocate for the Applicants, having owned the responsibility, does not object to the Application.

5. Mr. Rayyan Shah, learned Advocate for Respondent No. 2, submits that the Application for recall, not being filed within 30 days of the dismissal itself, is a ground for dismissing

this Application. He, however, does not dispute the submission made by Ms. Devyani Kulkarni, learned Advocate for the Applicant. He submits that prejudice is caused to the Respondent No.2, and as such, insists on costs. Mr. Rayyan Shah prays for costs of Rs. 10,000/-.

6. Perused the records with the assistance of the learned Advocates.

7. Records of this case show that an Advocate filed a Vakalatnama on behalf of the Respondent No. 2 in the Registry of this Court on 8th August, 2025. Mr. Rayyan Shah states that upon filing of the Vakalatnama on 8th August, 2025, a copy of the entire paper book of the Criminal Writ Petition No. 3389 of 2025 was served on him.

8. In view of the above and in the absence of any malafides being alleged by the Respondents, this Application is allowed, however, subject to the Applicants paying the costs of Rs. 10,000/- to the Respondent No. 2.

9. Interim Application No. 426 of 2026 is allowed subject to the Applicants paying an amount of Rs. 10,000/- to the Respondent No. 2, as a condition precedent within two weeks from today. Upon proof of payment along with a compliance affidavit, being filed in the Registry of this Court within a period of three weeks from today, the order dated 1st July, 2025, passed in Criminal Writ Petition No. 3389 of 2025 shall stand recalled and the Criminal Writ Petition No. 3389 of 2025 restored on the file of this Court.

(ASHWIN D. BHOBE, J.)