

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

CRIMINAL APPLICATION NO.469 OF 2022

Mrs.Bhavana Ashok Kesaria and Anr. .. Applicants
Versus
State of Maharashtra and Anr. .. Respondents

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Ms.Paavani Chadha, Advocate for the Applicant.
Mr.S.R. Agarkar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK J.

DATED : JUNE 15, 2022.

P.C. :

The applicants are aggrieved by the order dated 23rd December, 2019, passed by learned Metropolitan Magistrate 2nd Court, Mazgaon, Mumbai, issuing process for offence under Sections 43 and 66 of the Information Technology Act as well as Section 120-B of Indian Penal Code, and, the order dated 25th February, 2022, passed by the Sessions Court, dismissing the Revision Application preferred by them, challenging the order of process.

2 The applicants were impleaded as accused nos.3 and 4. The accused nos.1 and 2 had also preferred Revision Application before the Court of Sessions challenging the impugned order issuing process. The said Revision Application was allowed *vide* order dated 25th February, 2022, and, the order of process was set aside qua

accused nos.1 and 2. Whereas, by separate order dated 25th February, 2022, the Revision Application preferred by the applicants was dismissed. The grievance of the applicants is that though offences under Sections under Sections 43 and 66 of IT Act are not made out against the applicants, the learned Sessions Judge while rejecting the Revision Application preferred by the applicants has held that the case is made out attracting the aforesaid offence. It is observed that the applicants were not owners or partners of the firm, and, therefore the data was removed without the permission of the owners/partners. It is the case of the complainant that accused nos.1 and 2 were the partners with the complainant and in his connivance all the accused have committed the alleged offence. It is pertinent to note that the process issued against the alleged partners has been set aside by the learned Sessions Judge, whereas the order of process has been confirmed against the applicants.

3 Issue notice to respondent no.2, returnable on 19th July, 2022.

4 In the meantime, there shall be ad-interim relief in terms of prayer clause (c), till the next date of hearing.

(PRAKASH D. NAIK, J.)