



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3750 OF 2023

Rajabali Shabbir Wishiwala and Another ...Petitioners.

Versus

State Of Maharashtra and Another. ...Respondents.

Ms. Nazeem S. Baig for the petitioner.

Ms. M. R. Tidke, APP for the respondent-State.

Mr. Jitendra Ahuja for respondent no. 2.

Coram : Sharmila U. Deshmukh, J.

Date : February 1, 2024.

P. C. :

1. Allegation made is that application which is annexed at page 59 of the petition was not filed before the Magistrate and no notice of the said application was given. The contention of learned counsel appearing for the petitioner is that after having settled the matter by mutual consent and accepting a sum of Rs.10 lakh, another DV application came to be filed. Learned counsel appearing for the petitioner submits that by the impugned order dated 1st July 2023, the Magistrate has exercised powers under section 362 of the Code of Criminal Procedure, 1973 and has modified the order by deleting the words "mutual compromise" by noting the application at page no. 59

of the petition.

2. Considering the submissions advanced, it is necessary to call for the record and proceedings of the matter from the trial Court. Registry is directed to call for the record and proceedings of Criminal M.A. No. 1056 of 2015 from the Court of JMFC, Cantonment Court, Pune before the next date.

3. Learned counsel appearing for the respondent seeks permission to file affidavit-in-reply. Affidavit in reply to be filed in the Registry within two weeks from today.

4. Stand over to 1st March 2024.

[Sharmila U. Deshmukh, J.]