

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1907 OF 2019

KUMUDINI MAYUR ... APPELLANT(S)

VS.

LALIT VISANJI MOTA & ORS. ... RESPONDENT(S)

O R D E R

Heard the learned counsel appearing for the parties.

The first respondent filed a private complaint under Section 200 of the Code of Criminal Procedure, 1973 (for short, the "CRPC") alleging commission of an offence punishable under Sections 500 read with 114 and 34 of the Indian Penal Code, 1860. The learned Magistrate issued process. Initially, a Writ Petition was filed by the appellant before the High Court for challenging the order issuing process. The Writ Petition was withdrawn. Thereafter, a Revision Application was filed by the appellant under Section 397 of the CRPC for challenging the order issuing of process. The delay in filing Revision Application was not condoned mainly on the ground that while the Writ Petition was withdrawn, this Court did not grant liberty to the appellant to file a Revision Application. The order of the Sessions Court has been confirmed by the High Court.

Even if the Writ Petition was withdrawn, the remedy under Section 397 of the CRPC available to the appellant cannot be taken away. The withdrawal of the Writ Petition was no ground for not considering the Revision Application on merits. Therefore, the impugned orders cannot be sustained and the same are accordingly set aside. Miscellaneous Application No.1471 of 2016 is hereby allowed.

We direct the Sessions Court to hear the Revision Application in accordance with law. We direct the parties to appear before the Principal Judge of the City Civil and Sessions Court, Mumbai on 21st February, 2025 in the morning. The parties appearing today before this Court shall be under an obligation to appear before the Court on that day and no further notice shall be served to them. The learned Principal Judge may either himself decide to take up the Revision Application on merits or transfer it to any other Sessions Judge.

A copy of this order shall be forwarded to the Registrar of the City Civil and Sessions Court, Mumbai who will ensure that the restored Revision Application is placed before the learned Principal Judge.

All questions are left open to be decided in the pending Revision Application.

Till the disposal of the Revision Application, the interim order of stay of further proceedings passed by this Court on 21st October, 2019 will continue to operate.

The original record be sent back to the City Civil and Sessions Court, Mumbai, Maharashtra.

The appeal is accordingly allowed.

.....J.
(ABHAY S.OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
January 23, 2025.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 1907/2019

KUMUDINI MAYUR

Appellant(s)

VERSUS

LALIT VISANJI MOTA & ORS.

Respondent(s)

([FIRST ON THE CAUSE LIST]

IA No. 42292/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 42293/2019 - EXEMPTION FROM FILING O.T.)

Date : 23-01-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Appellant(s) :

Mr. Dilip Annasaheb Taur, AOR
Mr. Raju Yamgar, Adv.
Mr. Amol V Deshmukh, Adv.

For Respondent(s) :

Mr. Sachin Patil, Adv.
Mr. Geo Joseph, Adv.
Mr. Risvi Muhammed, Adv.
Mr. Rishabh Agarwal, Adv.
Mr. Kailas Bajirao Autade, AOR

Ms. Nilofar Khan, AOR

Mr. Anand Dilip Landge, Adv.
Mr. Aaditya Aniruddha Pande, AORUPON hearing the counsel the Court made the following
O R D E RThe appeal is allowed in terms of the signed order.
Pending applications also stand disposed of.(ANITA MALHOTRA)
AR-CUM-PS(AVGV RAMU)
COURT MASTER

(Signed order is placed on the file.)