

**BEFORE
HON'BLE MR JUSTICE VED PRAKASH VAISH
CRL. MC No. 1 of 2017**

23.02.2017

Mr. A.A. Mir, learned counsel appears on behalf of petitioners/applicants.

Mr. K.P. Bhattacharjee, learned counsel appears on behalf of State respondent.

This is an application for setting aside order dated 06th December, 2016 passed in Crl. Petn. No. 26 of 2015.

Briefly stating facts of the case are, that the petitioners had filed a petition under Section-482 of the Code of Criminal Procedure, 1973 (herein referred to as 'Cr.P.C.') for quashing of the proceeding in G.R. (A) Case No. 154 of 2015 and orders dated 10th July, 2015, 16th July, 2015 and 21st August, 2015, bearing Crl. Petn. No. 26 of 2015.

The said petition came up for hearing on 06.12.2016 and during the course of arguments, learned counsel for petitioners sought permission to withdraw the said petition. The said request was not opposed on behalf of the respondent and the petition was dismissed as withdrawn.

The applicants have filed the present application for setting aside the order dated 06th December, 2016. The petitioners/applicants have taken a plea that they had not instructed or intimated to the counsel to withdraw the said petition and the counsel had withdrawn the petition of his own.

Mr. A.A. Mir, learned counsel for the petitioners/applicants further submits that the earlier petition was withdrawn without any argument and there is no finding on merit.

Mr. K.P. Bhattacharjee, learned counsel for the State fairly concedes that at the time of hearing on 06.12.2016, the case was not argued on merits and simply withdrawn by the petitioner. Learned counsel for the respondent further submits that there is no provision for restoration of the earlier petition. However, learned counsel for both the parties have

agreed that the petitioners/applicants may be allowed to withdraw the present application with liberty to file fresh petition under Section-482 Cr.P.C.

In view of the facts and circumstances of the case and submissions made by learned counsel for both the parties the present application is dismissed as withdrawn. However, the applicants are at liberty to file a fresh petition in accordance with law.

JUDGE

V. Lyndem