

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.152 OF 2015

Chand s/o Dagdu Fakir @ Inamdar,
Age:30 years, Occu: Nil.,
R/o Sai Nagar, Kasar Wadvali,
G.B. Road, Thane, Dist. Thane

...Petitioner

versus

The State of Maharashtra & ors.

...Respondents

**WITH
CRIMINAL WRIT PETITION NO. 153 OF 2015**

Dagadu s/o Murtuja Fakir @ Inamdar & ors.

...Petitioners

versus

The State of Maharashtra & ors.

...Respondents

.....
Mr. S. J. Salunke, Advocate h/f Mr. R. T. Deshmukh, Advocate for
petitioners

Mrs B. B. Gunjal, A.P.P. for respondent No. 1

Mr. P. S. Chavan, Advocate for respondent No. 2

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CORAM : N.W. SAMBRE, J.

DATE : 1st SEPTEMBER, 2015

ORAL ORDER :

. In Criminal Writ Petition No. 152/2015, pursuant to the order in dated 19/08/2015 and earlier order dated 06/05/2015, the petitioner has tendered unconditional apology for making incorrect statement. The apology is accepted.

2. He has tendered undertaking that, he will deposit the

cost of Rs. 25,000/- (Rs. Twenty Five Thousand) within period of four weeks from today before the Additional Sessions Judge, Osmanabad in Criminal Appeal No. 86 of 2010. He has also tendered undertaking before this Court that, he shall clear all the arrears payable to the respondents within period of four weeks from today. The undertaking is taken on record and marked "X" for identification.

3. He further assured this Court that in the hearing of appeal pending before Sessions Court, he shall not seek further adjournment in the matter and shall co-operate with the said Court in the early disposal of the appeal.

4. In view of above discussed undertaking, present Writ Petition No. 152/2015 is allowed. The order of dismissing the Criminal Appeal No. 86 of 2010 on 28/03/2014 passed by learned Additional Sessions Judge, Osmanabad, is hereby set aside. The said appeal stood restored to the file of learned Additional Sessions Judge, Osmanabad.

5. If the present petitioner fails to comply with any of the conditions as mentioned in the undertaking and accepted by this Court, present order of allowing the writ petition shall be revived upon request of the respondent wife.

6. Present Criminal Writ Petition No. 153/2015 is arising out of the order passed by the learned Sessions Judge, Osmanabad in Criminal Appeal No.84 of 2010 on 28/03/2014 dismissing the appeal in default in view of absence of lawyer with the appellant before the Court. This Court has already passed order in Criminal Writ Petition No. 152/2015 restoring the Criminal Appeal No. 86 of 2010.

7. In view thereof, order passed in Criminal Appeal No. 84 of 2010, is set aside on the same grounds except the payment of cost in the present case quantified at Rs. 5000/- (Rs. Five Thousand). Upon deposit of said amount, respondents are entitled to withdraw the same. Notice of contempt issued to the petitioner is discharged.

8. Criminal Writ Petition No. 153/2015, is allowed in above terms.

[N.W. SAMBRE, J.]