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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION (ST) NO.227 OF 2016
WITH
CRIMINAL APPLICATION NO.185 OF 2016
IN
CRIMINAL REVISION APPLICATION (ST) NO.227 OF 2016**

Ashank Balkrishna Chandane	...Applicant
Versus	
The State of Maharashtra	...Respondent
Mr.Pravin Dabade i/b Mr.Vikas Shivarkar, for the Applicant	
Ms.P.P.Shinde, A.P.P for the Respondent-State	

***CORAM : REVATI MOHITE DERE, J.
DATE : 19th JULY, 2016***

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.
2. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal. Learned APP waives service on behalf of Respondent – State.
3. By this application, the Applicant seeks quashing and setting

aside of the Judgment and Order dated 13th May, 2015 passed by the learned Additional Sessions Judge, Pandharpur in Criminal Appeal No.43 of 2010.

4. Learned Counsel for the applicant states that the applicant had filed an appeal being Criminal Appeal No.43 of 2010 against the Judgment and Order dated 8th October, 2010, passed by the learned Jt. Judicial Magistrate First Class, Sangola in STC No.443/2002, convicting the applicant for the offence punishable under Section 506 r/w 34 of the Indian Penal Code and sentencing him to suffer imprisonment till rising of the Court and to pay a fine of Rs.2,000/- and in default to undergo S.I for 15 days. He submitted that as the applicant was absent since 2012, the learned Additional Sessions Judge dismissed the said appeal. He submitted that the aforesaid Judgment and Order dated 13th May, 2015 is not on merits but only on the ground that the applicant had remained absent, since 2012. He submitted that the applicant is ready to give an undertaking in the Appellate Court that he will appear on every date of the hearing and will diligently pursue his appeal being Criminal Appeal No.43 of 2010.

5. Perused the papers. It appears that the impugned Judgment and Order dated 13th May, 2015 passed by the learned Additional Sessions Judge, Pandharpur in Criminal Appeal No.43 of 2010 was not on merits but only on the ground that the applicant was absent. It was observed by the learned Additional Sessions Judge that the appellant has lost interest in prosecuting the appeal and hence dismissed the appeal.

6. It appears that the learned Additional Sessions Judge, had no option but to proceed with the Appeal, as the applicant had remained absent, since November, 2012. However, considering the fact that the appeal has not been heard on merits and considering the fact, that the applicant is ready to given an undertaking in the Appellate Court, that he or his advocate will appear on every date of the hearing and will diligently pursue his appeal, being Criminal Appeal No.43 of 2010, the application is allowed and the impugned Judgment and Order dated 13th May, 2015 passed by the learned Additional Sessions Judge, Pandharpur in Criminal Appeal No.43 of 2010 is quashed and set aside and Criminal Appeal No.43 of 2010 is restored to its original file.

7. The applicant shall appear before the learned Additional Sessions Judge, Pandharpur on 1st August, 2016, on which date, he shall given an undertaking that he or his Advocate will appear on every date of the hearing, and that he will diligently pursue his appeal being Criminal Appeal No.43 of 2010.

8. Rule is made absolute in above terms.

9. In view of the aforesaid order passed today, Criminal Application No.185 of 2016 does not survive and the same is also disposed of.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.