IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 369 OF 2016
WITH
CRIMINAL APPLICATION NO. 365 OF 2016
(FOR BAIL)

Raghunath Tukaram Kachare & Ors. ...Applicants
Versus
The State of Maharashtra & Anr. ...Respondents

Mr. Vivek V. Salunkhe for the Applicants

Mr. A. S. Shitole, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
MONDAY, 11th JULY, 2016

P.C. :

1. Heard learned Counsel for the applicants and the learned A.P.P for the State.

2. By this revision, the applicants have impugned the order dated 21st June, 2016 passed by the Additional Sessions Judge, Pune, by which the applicants' appeal came to be dismissed, as they were not present on several dates. Pursuant to the dismissal of their appeal, conviction warrants have been issued against the applicants.

3. Learned Counsel for the applicants submits that the applicants' appeal, being Criminal Appeal No. 215 of 2012 has not been decided on merits, but was dismissed, as the applicants failed to remain present on several dates. He further submits that the applicants are ready to file an undertaking before the Appellate Court stating therein, that they would appear on every date, except in unforeseen circumstances. He states that the said undertaking will be filed within two weeks from today before the Appellate Court.

4. Learned A.P.P submits that the appeal can be restored if the applicants are ready to furnish an undertaking that they would appear before the Appellate Court either themselves or through their lawyer.

5. Perused the papers. It appears that the applicants were absent for long and that even the Advocate representing them was not present before the Appellate Court and therefore, the learned Additional Sessions Judge was left with no alternative but to dismiss the applicants' appeal.

6. Considering that the applicants are ready to furnish an undertaking as aforesaid and also the fact that the appeal has not been considered on merits, but has been dismissed only on the ground of their absentism, the impugned order dated 21st June, 2016 passed in Criminal Appeal No. 215 of 2012 is quashed and set-aside and the appeal is restored back to its file.

7. The learned Sessions Judge shall decide the appeal on its own merits, after hearing the parties. The applicants to file an undertaking in the Appellate Court stating therein, that they themselves or through their lawyer would appear before the Appellate Court on every date. The said undertaking to be filed within two weeks from today.

8. Accordingly, the application is disposed of.

9. In view of the above order, nothing survives for consideration in Criminal Application No. 365 of 2016. The same is disposed of.

REVATI MOHITE DERE, J.