

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 657 OF 2016
IN
CRIMINAL APPLICATION NO.2851 OF 2008

Priyesh Bheda. .. Applicant
vs
The State of Maharashtra and Another. .. Respondents

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Mr. Priyesh Bheda, Applicant in person.
Dr.F.R. Shaikh, APP for the Respondent No.1.
Ms. Sakina Kothari i/b Kranti S.S. Anand for the Respondent No.2.
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CORAM : A.S. OKA & A.A.SAYED, JJ
DATED : 24TH AUGUST 2016

PC.

1. The learned counsel appearing for the second Respondent seeks time on the ground that she has received a copy of the Application today. The Applicant is present in person. The Criminal Application filed by the Applicant has been dismissed for non-prosecution on the ground that the Applicant remained absent on 9th June 2016 and 28th July 2016. In Paragraph 3 of the Application, the Applicant has stated that he was suffering from Kidney stones and he was under treatment. Certain documents of the Department of Urology B.Y.L. Nair Hospital are annexed to the Application. The reports of Ultrasonography of 30th June 2015 and 15th July 2015 have been annexed to the Application.

Reliance is also placed on the bills issued by Surana Sethia Hospital and Research Centre to the Applicant of the X-ray taken on 4th June 2016.

2. In Paragraph 4, the Applicant has stated that he has not received intimation of the date fixed in the matter. Even if we do not accept the said statement as correct, in view of what is stated in Paragraph 3 of the Application, a case is made out for restoration.

3. Considering the documents annexed to the Application and considering the fact that the Application filed by the Applicant has been dismissed for non-prosecution as he did not remain present, it is not necessary to grant time to file a reply. Accordingly, the Application is made absolute in terms of prayer clause (a).

4. The restored Application shall be fixed under the caption of "Fresh Admission" on 28th September 2016.

5. We make it clear that the ad-interim relief which was operative in the main Application is not restored.

(A.A. SAYED, J)

(A.S. OKA, J)