

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

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.509 OF 2015**

**IN**

**CRIMINAL REVISION APPLICATION (ST.) NO.216 OF 2011**

**JANU BHIKA BANGAR**

**)...APPLICANT**

**V/s.**

**NARAYAN BHIWA VYAPARI AND ANR.**

**)...RESPONDENTS**

Ms.Payoshi Roy i/b. Dr.Yug Mohit Chaudhary, Advocate for the Applicant.

None for Respondent No.1.

Mr.A.R.Kapadnis, APP for the Respondent - State.

**CORAM : P N. DESHMUKH, J.**

**DATE : 30<sup>th</sup> SEPTEMBER 2016.**

**P.C. :**

1            Heard learned counsel for applicant. None for respondent no.1, though appears to be served in delay application. Heard learned APP. This is an application for restoration of criminal revision application which came to be dismissed for default by this court on 12<sup>th</sup> January 2012 for non-appearance of applicant. It reveals that applicant came to be convicted under Section 323 read with section 34 of IPC and is sentenced to suffer rigorous imprisonment for 15 days and to

pay a fine of Rs.1000/- and had challenged said conviction before the learned Sessions court with application for delay caused in preferring appeal. However, said application was dismissed in default for non-appearance of applicant's advocate. Being aggrieved by such dismissal on 30<sup>th</sup> March 2011, applicant preferred revision application before this court praying for setting aside order of dismissal by learned Additional Sessions Judge, Kalyan. However, same was also dismissed in default of non-appearance of applicant's counsel on 12<sup>th</sup> January 2012.

2           The delay caused in filing application for restoration of said Criminal Revision Application (Stamp) No.216 of 2011 is already condoned.

3           Considering the fact of applicant having been demoted in his rank since found convicted and as such amount of pension payable to applicant is reduced to Rs.3500/- from Rs.14,000/- per month, I find much substance in this application as it is contended on behalf of applicant that applicant has good case on merits, and in the event he succeeds in the revision application, there is possibility of revision of his pension.

4            Having considering facts as aforesaid, present application is liable to be allowed.

                 Criminal Revision Application (Stamp) No.216 of 2011 which is dismissed for default on 12<sup>th</sup> January 2012 is restored to file of this court.

                 Same be shown in the caption of “Admission”.

                 Issue fresh notice to respondent no.1, returnable on **18<sup>th</sup> November 2016.**

**(P. N. DESHMUKH, J.)**