

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

**CRIMINAL APPLICATION NO. 3427 OF 2016
IN CRI.APPLN/2060/2015**

**DIGAMBARRAO S/O DEVIDASRAO
VERSUS
THE STATE OF MAHARASHTRA &**

**...
Advocate for Applicant : Kothari Pratik P
APP for Respondents: Mr.A.A.Jagatkar**

...

**CORAM : V.L.ACHLIYA,J.
DATE : 23/01/2017**

PER COURT :-

This application is moved seeking recall of order dated 11/1/2016 passed in Criminal Application No.2060/2015 with consequential order of restoration of application to original status and condonation of 34 days delay in filing application.

2] Learned counsel for the applicant submits that the application seeking leave to file appeal was dismissed in default for the reason the counsel engaged by the applicant remained absent on the date the matter was called out. He submits that the counsel representing the applicant has not informed the applicant about the dates fixed in the matter for hearing of the matter and therefore, he could not attend the Court. Due to the fault on the part of the learned counsel engaged by the applicant, the application was dismissed. After he received the knowledge about the dismissal of application, the applicant has engaged another advocate and filed the present

application.

3] Notice of the application was issued to respondents. However, the respondents failed to appear. In this view, the cause assigned for seeking recall of order, remained unchallenged, uncontroverted and therefore, the application deserves to be allowed. Accordingly the application is allowed. Delay is condoned. The order dated 11/1/2016 passed in Criminal Application No.2060/2015 is hereby recalled and the application is restored to its original number. Place the application for hearing on 2/2/2017.

4] With this order and direction the application is disposed of.

(V.L.ACHLIYA,J.)

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