

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.9 OF 2017
IN
CRIMINAL APPLICATION NO.1855 OF 2010

Kishore Ramchandra Punjabi & Ors. ...Applicants

Versus

The State of Maharashtra & Anr. ...Respondents

...

Mr. Mohammed Umar Kazi for the Applicants.

Mr. K.V. Saste, APP for Respondent No.1.

Mr. V.N. Tayade for Respondent No.2.

Mr. Deepak Gopaldas, Petitioner No.5 in-person present.

CORAM : A.S. OKA &
SMT. ANUJA PRABHUDESSAI, JJ.

DATED : 13th JANUARY, 2017.

P. C. :

Heard the learned counsel appearing for the Applicants, the learned counsel appearing for the second Respondent and the learned Public Prosecutor for the Respondent -State. The present application is filed by the first, second and sixth to eighth Applicants in the main Criminal Application No.1855 of 2010. The Criminal Application was dismissed for non prosecution on 31st August, 2016 when it was called out for final hearing. In the present application, it is stated that the Applicants were not aware that the Application was listed on 31st

August 2016 and their Advocate did not appear on the date on which the application was called out. The Applicant No.5 in Criminal Application No.1855 of 2010 appears in person and tenders an affidavit. In the said affidavit, he has stated that he wants to withdraw Criminal Application No.1855 of 2010. As far as the said Applicant in main Criminal Application is concerned, the application is already stands dismissed and restoration is not sought on his behalf.

2. Considering the fact that the application was dismissed for non prosecution as Advocate appearing for the Applicants could not appear, a case for restoration is made out. Accordingly, the application is allowed in terms of prayer clauses (i) to (iv). We make it clear that Criminal Application No.1855 of 2010 stands restored only as far as first, second and sixth to eighth Applicants therein are concerned. It stands dismissed as far as fourth and fifth Applicants therein are concerned. The learned counsel for the Applicants states that the third Applicant in the said application is no more. We accept the said statement.

3. The restored Application shall be immediately listed on the appropriate cause list.

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)