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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 160 OF 2015

The State of Maharashtra ..Applicant
Vs.
Anil Vasant Merchande @ Brother. ..Respondent

Mrs. P.P. Shinde, APP for Applicant-State.

CORAM: A.S. GADKARI, J.

DATE : 21st April 2017.

P.C.

1] Heard the learned APP for the Applicant-State and perused the record annexed to the application.

2] The record reveals that by an Order dated 1.3.2014 passed by the Additional Chief Metropolitan Magistrate, 24th Court, Borivali, Mumbai the respondent was granted in-default bail as contemplated under Section 167(2) of Cr. P.C. The State preferred a Misc. Application No.21 of 2014 before the Additional Sessions Judge, Greater Mumbai for cancellation of said bail on the ground that the charagesheet was submitted on 88th day i.e. prior to 90 days. The learned Additional Sessions Judge,

Greater Mumbai by its Order dated 3.11.2014 recorded its conclusion that the Order passed by the learned Additional Chief Metropolitan Magistrate was proper and applicant was entitled to be released on bail as contemplated under Section 167(2) of Cr. P.C. and was pleased to reject the said application. The said Orders dated 1.3.2014 passed by the Additional Chief Metropolitan Magistrate, 24th Court, Borivali, Mumbai and dated 3.11.2014 passed by the Additional Sessions Judge, Greater Mumbai are impugned herein.

3] I have perused the entire record. It clearly appears from the record that the prosecution did not file chargesheet within the stipulated period and therefore an indefeasible right as contemplated under Section 167(2)(a) of Cr. P.C accrued in favour of the applicant and therefore the learned Metropolitan Magistrate was pleased to grant in-default bail to the applicant by an Order dated 1.3.2014. After perusing both the orders minutely, I find that there is no perversity or illegality committed by both the Courts below.

4] The application being devoid of any merits, is accordingly dismissed.

(A.S. GADKARI,J.)