

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.327 OF 2016

IN

CRIMINAL APPLICATION NO.1367 OF 2011

BHARAT PRAJIVANDAS SHROFF

)...APPLICANT

V/s.

SAPPHIRE LIFE SCIENCES PVT. LTD.& ORS.)...RESPONDENTS

Mr.Vijendra Jabrai/b. Mr.S.M.Choudhury, Advocate for the Applicant.

Ms.VS.Mhaispurkar, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 17th FEBRUARY 2017

P.C. :

1 This is an application for restoration of the Criminal Application bearing no.1367 of 2011 which came to be dismissed in default of the applicant on 28th November 2015 by this court.

2 Heard the learned advocate appearing for the applicant as well as the learned APP appearing for the State. As argued and pleaded, it is seen that the learned advocate for the applicant was out of station when the application for leave to appeal was listed before this court on 28th November 2015 and because of absence of learned advocate appearing for the applicant, it was dismissed in default.

3 Perusal of the record of Criminal Application No.1367 of 2011 shows that when the said application was dismissed in default, respondent nos.1 to 3 were not served. As such, it is not necessary at this stage in this proceeding to issue notice to respondent nos.1 to 3, who were not even served during pendency of the Criminal Application No.1367 of 2011.

4 It is also seen that there is some delay in filing application for restoration, and as, as per stated reasons, it appears that the applicant was prevented by sufficient cause in filing the application within limitation, delay is condoned.

5 As absence of the applicant was due to sufficient cause when the application was dismissed in default, the present application deserves to be allowed, and therefore the order :

- i) The application is allowed.
- ii) Delay condoned.
- iii) The order dated 28th November 2015 dismissing Criminal Application No.1367 of 2011 is recalled. Said application is restored to file at the stage when it was dismissed.
- iv) Copy of this order be placed on the record of Criminal Application No.1367 of 2011 as fresh notice would be required to be issued to respondent nos.1 to 3 in that matter.

(A. M. BADAR, J.)