

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.552 OF 2016

IN

CRIMINAL APPLICATION NO.313 OF 2008

THE COMMISSIONER OF CUSTOMS (P))...APPLICANT

V/s.

MALLARAM DEVASHI AND ORS.)...RESPONDENTS

Mrs.A.A.Mane, Special Public Prosecutor, for the Applicant.

Ms.A.A.Talekar, APP for the Respondent – State.

Mr.Abhishek Yende, Advocate for Respondent Nos.1 to 3.

CORAM : A. M. BADAR, J.

DATE : 17th FEBRUARY 2017

P.C. :

1 The learned advocate appearing for the applicant undertakes to serve copy of application for restoration of the Criminal Application bearing no.391 of 2016 to the learned advocate appearing for respondent nos.1 to 3 forthwith.

2 Heard the learned advocate appearing for the applicant as well as the learned advocate appearing for respondent nos.1 to 3 as well as the learned APP appearing for respondent no.4 State.

3 In submission of learned advocate appearing for the applicant, proceeding in Criminal Application No.391 of 2016 came to be dismissed in default due to absence of the learned advocate appearing for the applicant. This happened, according to the learned advocate for the applicant, because of preoccupation of the learned advocate appearing for the applicant. Absence was not deliberate. As against this, learned advocate appearing for respondent nos.1 to 3 opposed the application by contending that this is the fifth occasion when original proceedings came to be dismissed in default.

4 Be that as it may, by granting restoration, the ultimate effect will be decision of the matter on merit. Considering the reasons given in the application, I am of the opinion that the

learned advocate for the applicant was prevented by sufficient cause in not appearing before the court when the matter was called out.

Therefore the application is allowed.

Criminal Application No.391 of 2016 is restored to file.

(A. M. BADAR, J.)