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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

***CRIMINAL APPLICATION NO.935 OF 2016
IN
CRIMINAL APPEAL NO.118 OF 2015***

Rekha Gajanan Golatkar	...Applicant
Versus	
Nayana Iccharam Panchal and Anr.	...Respondents

Mr.K.A. Merchant, for the Applicant.

Mr.Y.M.Nakhwa, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 24th JULY, 2017

P.C. :

1. Heard the learned counsel for the Applicant.
2. By this application, the applicant seeks recall of the order dated 6th October, 2015, and prays for restoration of Criminal Appeal No.118 of 2015, which came to be dismissed for non- prosecution, as none was present on behalf of the appellant.

3. Learned Counsel for the applicant states that vide order dated 20th December, 2014, passed in Criminal Application No.47 of 2013, this Court was pleased to grant leave to file appeal and was pleased to admit the appeal, and that Record and Proceedings were also called for. He states that the aforesaid appeal was listed and kept for dismissal for non-payment of the court fees and for want of prosecution. He submits that the Advocate was not aware that the Appeal was numbered, since he was checking for leave to file Appeal, being Criminal Application No.47 of 2013 and not the new numbered Appeal, being Appeal No.118 of 2015. He submitted that the applicant had a good case on merits.

4. It appears that on the day when the Appeal was dismissed for non-prosecution, neither the Advocate for the applicant nor the Advocate for the respondent No.1 were present. Considering the aforesaid and for the reasons set out in paras 5 to 7 of the application, the application is allowed. The order dated 6th October, 2015, is recalled and Criminal Appeal No.118 of 2015, is restored to file. Delay, of 263 days in filing the aforesaid Appeal is, condoned.

5. The Application is accordingly disposed of.

(REVATI MOHITE DERE, J.)