

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

**CRIMINAL APPLICATION NO. 398 OF 2017
IN
CRIMINAL WRIT PETITION NO. 1426 OF 2003**

Rajiv S. Modi	Applicant
Versus	
The State of Maharashtra & Ors.	Respondents

Mr. Manoj M. Badgujar for the applicant.
Mr. M.G. Patil, APP for Respondent no.1/State.
Mr. Vikram Sutaria for respondent no.2.

***CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 06th NOVEMBER, 2017***

P.C. :

1. By this application, the applicant has sought restoration of Writ Petition No. 1426 of 2003. Mr. Manoj Badgujar, learned counsel for the applicant submits that the earlier advocate was not keeping good health and therefore, the applicant had engaged another advocate on 22nd June, 2017. It is submitted that new advocate who was appointed was unable to obtain NOC from the earlier advocacy till 26th June, 2017 and that he had filed vakalatnama in the registry on 27th July, 2017.

2. Mr. Vikram Sutaria, learned counsel for respondent no.2 has submitted that the writ petition was earlier dismissed in the year 2003 and was restored in the year 2007. He has submitted that pursuant to

the interim order passed in Writ Petition No. 1426 of 2003, the proceedings before the trial court have been stayed and that the applicant is only making an attempt to delay the said proceedings by deliberately remaining absent whenever the matter comes up for hearing and thereafter files application for restoration.

3. Having considered the arguments advanced by the learned Counsels for the respective parties and also having perused the grounds set out in paragraph 2, 3 and 4 of the application and more particularly, in the interest of justice, following order is passed :-

(I) Criminal Application No.398 of 2017 is allowed.

(II) The delay in filing the application is condoned and order dated 20th July, 2017 is recalled subject to payment of cost of Rs.20,000/- to the respondent no.2 as condition precedent.

(III) Writ Petition No. 1426 of 2003 is restored to file.

(SMT. ANUJA PRABHUDESSAI, J.)