

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL REVISION APPLICATION NO. 10 OF 2016**

Mr. Satish R. Mardolkar,
S/o Shri Ramkrishna Mardolkar,
Business, major of age,
R/o H. No.890/3,
Gulmohar Building,
F-1, V. P. Socorro,
Porvorim, Bardez- Goa.

.... Petitioner

V e r s u s

1. Mr. Mancio J. Monteiro,
s/o Mr. Joaquim Monteiro,
major of age,
R/o St. Mary Colony,
Road no.01, Miramar,
Panaji, Goa.

2. State of Goa,
Through Public Prosecutor,
High Court, Altinho,
Panaji, Goa.

..... Respondents

Shri S. Redkar, Advocate for the Petitioner.

Shri Mr. A. Monteiro, Advocate for the Respondent.

CORAM: C. V. BHADANG, J.
DATE: 27TH February, 2018.

ORAL JUDGMENT :

The challenge in this revision application is to the judgment and order 14/1/2016 passed by the learned Sessions, North Goa, Panaji, dismissing the appeal filed by the applicant in default. That appeal was filed by the applicant challenging his conviction for the offence punishable under section 138 of the Negotiable Instruments Act 1881.

2. I have heard Shri Redkar, the learned counsel for the petitioner and Shri Monteiro, the learned counsel appearing for the respondent no.1.

3. It is now well settled that a criminal appeal has to be decided on merits and cannot be dismissed in default. The provisions of section 385 r/w section 386 of Cr.P.C. are relevant for the purpose. Thus, in my considered view the learned Sessions Judge was in error in dismissing the appeal for default on account of non-appearance of the petitioner. In the result the Criminal Revision is allowed. The impugned order is hereby set aside. The Criminal Appeal No.92/2015 is hereby restored to file of the learned Sessions Judge at Panaji for disposal according to law. Parties to appear before the learned Session Judge on 12/3/2018 at 10.a.m.

4. The amount lying before this Court along with interest, if any, shall be

remitted to the Court of the learned Sessions Judge, Panaji.

C. V. BHADANG, J.

Ap/