

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 68 OF 2017

VIRENDRA DABHOLKAR., ... Petitioner

Versus

SANTOSH PUTU NAIK AND ANR., ... Respondents

Shri S. Shet, Advocate for the Petitioner.

Shri P. Faldesai, Addl. Public Prosecutor for the Respondent
no.2.

Coram:- C. V. BHADANG, J.

Date:- 5th March 2018

Oral Order:

The challenge in this revision application is to the order dated 4/9/2017 passed by the learned Addl. Sessions Judge (2), Margao thereby dismissing the appeal in default and for non prosecution.

The petitioner had challenged his conviction under section 138 of the Negotiable Instruments Act 1881 in appeal before the learned Sessions Judge.

2. I have heard Shri Shet, the learned counsel for the petitioner and Shri Faldesai, the learned Addl. Public Prosecutor for the respondent no.2. None appears for the respondent no.1 though served.

3. It is trite that a criminal appeal cannot be dismissed in default

and has to be decided on merits. The provisions of section 386 and 387 of Cr.P.C. are relevant for the purpose. The learned Sessions Judge thus was clearly in error in dismissing the appeal for default. In such circumstances, the revision application is allowed. The impugned order is hereby set aside. Criminal Appeal No.11/2017 is restored back to the file of the learned Addl. Sessions Judge (2), Margao for disposal according to law. The parties to appear before the learned Sessions Judge on 19/3/2018 at 10 a.m.

C. V. BHADANG, J.

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