

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.695 OF 2018
IN
CRIMINAL APPLICATION [ALP] NO.14 OF 2018**

Prashant Wagh through

P.O. Ajay Sukhdeo Mahakalkar ... **Applicant**

V/s.

The State of Maharashtra and anr. ... **Respondents**

Ms.Neeta Varghese i/b. Mr. Goldbricks Legal for the applicant.

Mr.A.R. Kapadnis, APP for the respondent/State.

CORAM : A.M.BADAR J.

DATED : 22nd JUNE 2018.

P.C. :

1. This is an application for restoration of an application for leave to appeal whereby the applicant/original complainant challenged acquittal of respondent no.1 of the offence punishable under Section 138 of the Negotiable Instruments Act.

2. Heard the learned Advocate appearing for the applicant/original complainant. She argued that issuance of notice to respondent/original

accused is not necessary because when the application for leave to appeal was dismissed for want of prosecution on 9th April, 2018, the respondent / original accused was not in appearance. The learned Advocate further argued that the applicant was prevented from sufficient cause from appearing before the Court when the application was called for hearing on 9th April, 2018.

3. I have considered submission so advanced. For the reasons stated in the application, the same is allowed. The order dated 9th April, 2018 dismissing the Criminal Application No.14 of 2018 is recalled. The said Criminal Application is restored to file.

4. The instant application is accordingly disposed of.

(A.M.BADAR J.)