

Vidya Amin.

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

**CRIMINAL APPLICATION No. 412 OF 2018
IN
WRIT PETITION No. 1239 OF 2005**

Babaso Dattaji Pawar & Anr. ... Applicants

vs.

The State of Maharashtra & Ors. ... Respondents

Mr. Wasim Samlewale I/b. Mr. T.S. Ingale, Advocate for the applicants.

Mr. Yogesh Y. Dabke, APP for the respondent/State.

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: 30th November, 2018

P.C. :

The learned counsel submitted that Writ Petition was dismissed for default on 18th September, 2018. He submitted that when the matter was called out, the advocate was busy in another matter and when he came, the Petition was dismissed. He submitted that the petitioners have good case on merits and since 2005 he is pursuing the matter. He submitted that respondent no. 2 is dead and respondent no. 3 has not appeared in the original Writ Petition since beginning. Hence, notice is not given.

2. In view of the submissions, the order dated 18th September,

2018 of dismissing the Writ Petition is hereby recalled. Writ Petition is restored to its original file along with the orders passed therein.

3. Criminal Application is allowed and is disposed of accordingly.

WRIT PETITION NO. 1239 OF 2005

Issue notice to respondent no. 3, returnable on 8th February, 2019.

(MRIDULA BHATKAR, J.)