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

CRIMINAL REVISION APPLICATION NO 161 .OF 2016.

Altaf Sadroddin Mulla ... Applicant

V/s.

The State of Maharashtra ... Respondent

- Mr. Gajanan M. Savgave, i/by Abhiram D. Patil, for the Applicant.
- Mrs. M. H. Mhatre, APP for respondent

CORAM : N. J. JAMADAR, J.

DATE : 11th December, 2019.

PC. :

1] With the consent of learned counsels for the parties, heard finally at the stage of admission.

2] The challenge in this revision is to an order dated 8th January, 2016 in Criminal Appeal No.28 of 2007, passed by the learned Additional Sessions Judge, Pandharpur; whereby the Criminal Appeal came to be dismissed and the judgment and order dated 15th June, 2007, passed by the learned Judicial Magistrate First Class, Sangola in R.C.C.No.10 of 2003, of conviction of the applicant/accused for the offence punishable under

Sections 419 and 468 of the Indian Penal Code (for short “the Penal Code”), and sentence to suffer rigorous imprisonment for six months and one year, respectively, and pay fine of Rs.5,000/- on each of the counts, came to be confirmed.

3] The learned counsel for the applicant has pointed out that the impugned judgment came to be passed by the learned Additional Sessions Judge, in the absence of the appellant and without hearing the arguments of the learned counsel for the appellant-accused in support of the appeal. The applicant has placed on record a copy of the roznama of the proceedings of appeal before the learned Sessions Judge. From the perusal of the Roznama, dated 11th December, 2015, it appears that as the appellant and his advocate were absent and the report of nonailable warrant, issued against appellant, was not received, fresh nonailable warrant was directed to be issued against appellant and the matter was posted awaiting report of the warrant to 08.01.2016. On the said date the learned Sessions Judge passed the impugned order and dismissed the appeal.

4] In the impugned order also, the fact that the appellant remained absent has been recorded with an observation that the appellant had lost interest in prosecuting the appeal.

5] Undoubtedly, the conduct of the applicant appears to be blame-worthy as the applicant had not turned up before the learned Additional

Sessions Judge, since 6th April, 2013. Indisputably, the learned Sessions Judge has made an endeavour to peruse the record and arrive at the conclusion to concur with the findings recorded by the learned Magistrate, yet the fact remains that the appellant was not heard.

6] In the aforesaid view of the matter, especially in the backdrop of gravamen indictment against the applicant and the grave nature of the offences for which the applicant has been found guilty by the learned Magistrate, it would be expedient in the interest of justice to provide an effective opportunity to the applicant/appellant to prosecute the appeal.

7] Hence the following order.

Order

i] Revision Application stands allowed.

ii] The impugned judgment and order dated 8th January, 2016 in Criminal Appeal No.28 of 2007, passed by the learned Additional Sessions Judge, Pandharpur, Dist. Solapur, dismissing Criminal Appeal No.28 of 2007, stands quashed and set aside.

iii] The Criminal Appeal No.28 of 2007 stand restored to the file of the learned Additional Sessions Judge, Pandharpur.

iv] The learned Additional Sessions Judge, Pandharpur is directed to hear and decide Criminal Appeal No.28 of 2007

afresh by providing an opportunity of hearing to the applicant/
appellant and the prosecution.

v] Applicant/appellant shall remain present before the learned
Additional Sessions Judge, Pandharpur, along with his advocate
on 07.01.2020.

vi] The applicant/appellant shall not seek adjournment in
Criminal Appeal No.28 of 2007.

vii] Revision Application stands disposed of accordingly.

[N. J. JAMADAR, J.]