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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

***CRIMINAL APPLICATION NO.444 OF 2019
(FOR LEAVE)***

M/s. Arti Company ..Applicant.

V/s.

Shankar Hanmantu Jadhav & Ors. ..Respondents.

Ms.B.R.Mangale i/b. Kshitija G.Sarangi for the applicant.

Mr.R.M.Pethe, APP for the respondent-State.

CORAM : NITIN W.SAMBRE, J.

DATE : NOVEMBER 13, 2019

P.C. :-

Pursuant to the provisions of section 256(1) of the Code of Criminal Procedure, the complaint came to be dismissed against the respondent-accused. The order of dismissal of the complaint is based on the failure of the applicant to adduce evidence on six occasions.

2. The complaint was pending since 2004 i.e. almost for a period of ten years before the date of dismissal.

3. It is the case of the applicant, as is reflected in the revision which came to be dismissed against the order of dismissal of the complaint, that he was unable to lead evidence as the original documents were submitted in Civil

Suit for recovery against the respondents-accused. In view of the summer vacation, he was unable to get the original documents. That being so, he was unable to lead evidence.

4. So far as the case in hand is concerned, submissions are, applicant was very much present on the date of hearing and that being so, the default could not have been inferred against the applicant.

5. The submission if tested in the light of the pleadings in the revision and the present application, the applicant initially before the Revisional Court stated that he was unable to lead evidence for want of production of original documents which were not returned by the Civil Court in spite of request made, in view of the Summer Vacation. No such application as taken out by the applicant, is produced to that effect to substantiate his claim.

6. In the case in hand, the learned Magistrate has noted that the complaint is pending since 2004 and since March, 2014 till June, 2014, six adjournments were granted to the applicant to enter into the witness box, which the applicant failed to. Accepting the reasons for which the complaint is dismissed to be genuine, leave to appeal is refused.

(NITIN W.SAMBRE, J.)