

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

**CRIMINAL INTERIM APPLICATION NO. 2349 OF 2022
IN
CRIMINAL INTERIM APPLICATION NO. 365 OF 2019
IN
CRIMINAL APPLICATION NO. 5 OF 2018**

Mukesh Maheshkumar Kothari And Anr. ...Applicants

IN THE MATTER BETWEEN :

Mukesh Maheshkumar Kothari And Anr. ...Applicants

Versus

The State of Maharashtra And Anr. ...Respondents

....

Mr. Dilip H. Shukla, Advocate for the Original Applicant.

Mr.Ajeet Manwani i/by A & A Legal, Advocate for the Respondent No.2.

Mr. A.R. Agarkar, APP for the Respondent – State.

**CORAM : PRAKASH D. NAIK, J.
DATE : 3rd AUGUST, 2022.**

PER COURT:

1. Criminal Interim Application No.2349 of 2022 is for restoration of Criminal Interim Application No. 365 of 2019. Criminal Interim Application No.365 of 2019 dismissed for want of prosecution on 18th November, 2019. The said interim application was preferred for restoration of Criminal Application No.5 of 2018 which was dismissed for want of prosecution on 30th August, 2019.

2. Learned Advocate for the applicant submit that on account of reasons beyond his control the application was dismissed. In the

interest of justice the application may be restored and Criminal Application No. 5 of 2018 be heard on merits. It is further submitted that during the pendency of Criminal Application No. 5 of 2018, interim relief was granted by this Court.

3. Learned counsel for the Respondent opposes the prayer for restoration of application. It is submitted that on several occasions the advocate representing the applicant was not present and hence Criminal Application No. 5 of 2018 was dismissed for default. Thereafter, Criminal Interim Application No. 365 of 2019 was preferred for restoration which is also dismissed for want of prosecution. The criminal prosecution is pending in the Court of Magistrate for an offence under Section 138 of Negotiable Instruments Act, since 2016. The cheques were issued in the year 2015 and the amount of cheque is around Rs.9,50,00,000/-.

4. Considering the submissions of learned counsel for the applicant and in the interest of justice Criminal Interim Application No.2349 of 2022 is restored. Criminal Interim Application No. 365 of 2019 as well as Criminal Application No.5 of 2018 are restored to file. Criminal Application No.5 of 2018 be listed on the admission board on 30th August, 2022. It is clarified that interim relief granted earlier has not been restored. Parties are put to

notice that the criminal application would be heard for final disposal.

5. Interim Application stands disposed of.

(PRAKASH D. NAIK, J.)