

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1604 OF 2019
IN
CRIMINAL APPEAL NO.115 OF 2003

The State of Maharashtra	Applicant
versus	
Jaysing Narayan Gade and others	Respondents

Mr.S.V.Gavand, APP, for Applicant-State.
Mr.S.S.Bedekar, Advocate for respondent nos.1 and 2.

CORAM : PRAKASH D. NAIK, J.

DATE : 25th April 2022

PC :

1. This is an application for restoration of Criminal Appeal No.115 of 2003 which has been dismissed for want of prosecution vide order dated 1st August 2019.

2. Learned APP tendered affidavit recording service upon respondent nos.1 and 2 and also about fact that respondent no.3 has expired during pendency of criminal appeal. The death certificate of respondent no.3 is annexed to the affidavit.

3. Learned APP submitted that the appeal was dismissed for want of prosecution on 1st August 2019. Inadvertently none was present for appellant. In the interest of justice the appeal be restored.

4. Learned counsel for respondent nos.1 and 2 submit that appeal was dismissed for want of prosecution on 1st August 2019.

Respondent nos.1 and 2 are senior citizens aged about 60 and 62 years respectively. Hence, appeal may not be restored.

5. On perusal of order dated 1st August 2019 it appears that group of matters were dismissed as the appellants were not represented by concerned prosecutors. In the interest of justice, the appeal will have to be restored to file and heard on merits.

ORDER

- (i) Interim Application is allowed and disposed of;
- (ii) Criminal Appeal No.115 of 2003 is restored to file against respondent nos.1 and 2;
- (iii) Criminal Appeal No.115 of 2003 abates qua respondent no.3;
- (iv) Criminal Appeal No.115 of 2003 be listed for hearing in due course.

(PRAKASH D. NAIK, J.)

MST