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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.2867 OF 2022
IN
CRIMINAL APPLICATION STAMP NO.10519 OF 2022**

Dinesh Manganlal Jadhav	... Applicant
Vs.	
Dhiraj Jawanmal Rawal & Ors.	... Respondents

Mr. Dharmendra D. Jadhav i/b Mr. Agastya Desai for the Applicant.
Mr. Y. Y. Dabke APP for Respondent No.3-State.

CORAM : S. M. MODAK, J.

DATED : 15TH FEBRUARY 2023

PC:-

1. Heard learned Advocate for the Applicant and learned APP for Respondent No.3-State.

2. As directed by this Court by order dated 14th October 2022, private service is offered. The envelope of service on Respondent No.1 has returned back with remark "he is serving at some other place and left the address." Whereas Respondent No.2 is served by private notice. There is affidavit to that effect. It is taken on record and marked as Annexure "X". The Court notice is served on Respondent No.2 through his brother whereas Respondent No.1 is unserved at Mumbai address and at Rajasthan address. Respondent No.1 could not be served for want of time.

3. In spite of service on Respondent No.2, he has not appeared. The order which is under challenge was passed by Metropolitan Magistrate. 44th Court, Andheri, Mumbai, on 10th December 2021. The complaint in connection with CC No.1309/SS/2020 was dismissed in Special Drive, for non appearance of the complainant. It was at the stage of verification of the complaint. There is delay in preferring Appeal for the reasons stated in paras 5 to 8. There is sufficient reason. Hence, Application is allowed in terms of prayer clause (a) and is disposed of.

Application for Leave to Appeal (Stamp) No.10519 of 2022

4. Heard learned Advocate for the Applicant.

5. The complaint was dismissed at verification stage. The complainant has explanation to offer. The copy of order sheets are filed on page 50 to page 54. The case is made for grant of special leave. Hence, special leave is granted. Let Appeal be admitted.

6. Issue fresh notice to file Respondent Nos.1 and 2, returnable on **24th March 2023**. Learned APP waives service of notice. Private service is allowed. Service affidavit be filed.

7. Considering short controversy involved, an endeavour will be made to dispose of the Appeal finally.

(S. M. MODAK, J.)