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Uday S. Jagtap

(Corrected as per Speaking to Minutes of order dated 30.01.2024)

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

**CRIMINAL REVISION APPLICATION NO. 473 OF 2019
WITH
INTERIM APPLICATION NO. 318 OF 2019
IN
CRIMINAL REVISION APPLICATION NO. 473 OF 2019**

Avinash Vithhal Dharwadkar

.. Applicant

Vs.

The State of Maharashtra & Anr.

.. Respondents

.....

Mr. Ajit R. Pitale for the applicant

Ms. G.P. Mulekar, APP for the respondent – State

.....

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 22nd DECEMBER, 2023

P.C.

1. Heard learned Counsel for the applicant and the learned APP for the respondent - State.

2. This is a Revision Application impugning an order passed by the Additional Sessions Judge, Pune in Criminal Appeal No.74 of 2001 dated 2nd July 2019. It is apparent from the impugned order that the appeal came to be dismissed in default and not on merits.

3. This Court, at the time of suspending the execution of sentence pending the Revision Application, had observed about the said fact in para 3.

4. It is always necessary to decide and dispose of an appeal on merits instead of dismissing the same on the ground of non-prosecution.

5. Learned APP is *ad idem* on this aspect.

6. As such, the impugned order dated 2nd July 2019 is quashed and set aside and the matter is remanded back to the lower Appellate Court.

7. The lower Appellate Court shall decide the appeal on merits after giving opportunities to the applicant and the State as well as the Union of India.

8. The lower Appellate Court shall decide and dispose of the appeal within six weeks from the date of appearance of the applicant before it on 5th February 2024.

9. The order as regards bail during the suspension of the execution of sentence will continue to operate till the appeal is disposed of on merits.

10. The Revision Application is disposed of in the aforesaid terms.

11. In view of the disposal of the Revision, pending Interim Application also stands disposed of.

(PRITHVIRAJ K. CHAVAN, J.)