

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

**INTERIM APPLICATION NO. 4076 OF 2024
IN
CRIMINAL APPLICATION NO. 901 OF 2023**

Nitin Manik Thopte & Ors. ..Applicants
Versus
The State of Maharashtra ..Respondent

Ms. Gulestan Dubash a/w. Rahul Shelke a/w. Akshada Karale and
Pragati Khopkar for Applicants.
Ms. Mahalakshmi Ganapathy, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL &
DR. NEELA GOKHALE, JJ.
DATE : 21 OCTOBER 2024**

PC :

1. This is an application for restoration of Criminal Application No. 901 of 2023 which was dismissed vide the order dated 01.07.2024. It was observed in that order that the applicants had not complied with the directions issued vide the order dated 09.10.2023 and had failed to complete the service upon the Respondent No.2 through Humdast.

2. The order dated 09.10.2023 mentions that the notice was issued to the newly added Respondent No.2, returnable on 31.10.2023 and the Humdast was permitted.

3. Learned counsel for the applicants submits that due to miscommunication in the office of the learned counsel, inadvertently, the Humdast could not be collected and the Respondent No.2 could not be served. It was not a deliberate act but it was through inadvertence that the order remained to be complied with.

4. Considering this submission, in the interest of justice, we are inclined to restore the original application. In the main application, the service was not effected on the Respondent No.2 and, therefore, it was dismissed.

5. Hence, the following order:

O R D E R

- i) The Application is allowed.
- ii) The Criminal Application No. 901 of 2023 is restored to its original file.
- iii) Learned counsel is at liberty to get the matter circulated.
- iv) The Application is disposed of.

(DR. NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)