

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1265 OF 2016

Prasad Ramesh Fulpagar & Ors. ... Applicants
Versus
The State of Maharashtra & Anr. ... Respondents

- Mr. Pritesh Kantikumar Bohade, for the Applicants.
- Ms. Sharmila S. Kaushik, APP, for the Respondent-State.

**CORAM : MANISH PITALE AND
MANJUSHA DESHPANDE, JJ.**

DATE : 03rd DECEMBER 2025

P.C. :

1. By this application, the applicants are seeking restoration of Criminal Application No.1265 of 2016. This Court while granting rule in Criminal Application No.1265 of 2016, found a strong *prima facie* case in favour of the applicants and accordingly, granted a stay of further proceedings in Special Case No.7 of 2016, pending against the applicants. This concerns offences under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. In the order dated 21.03.2017 granting rule and interim

Kartikeya, PA.

stay, it was specifically directed that Respondent No.2 (first informant) would be served before the returnable date and that, an affidavit of service shall be placed on record one week before the returnable date, failing which Criminal Application No.1265 of 2016 would stand dismissed for non-prosecution without further reference to the Court.

3. The applicants in this application seeking restoration, submit that Respondent No.2 was served, but the affidavit of service could be placed on record suffering from a delay of about one to two days. It was brought to the notice of this Court that the Registry accepted the affidavit of service and therefore, the applicants were under an impression that no further steps were required to be taken. It was submitted that in such circumstances, the self-operating clause of the order dated 21.03.2017 resulted in the dismissal of the application about which, the applicants became aware much later and hence, they could file the instant application for restoration only in July 2019.

4. It is brought to the notice of this Court that the notice issued in the present application was duly served upon Respondent No.2 and that an affidavit of service is on record, we find that the affidavit of service is also accompanied by proof of service upon Respondent No.2 by way of Registered Post (AD).

Kartikeya, PA.

5. Despite service, Respondent No.2 has chosen not to appear in this application seeking restoration.

6. In light of the specific stand taken in the application for restoration, we are inclined to allow the same. Accordingly, the application is allowed. The Criminal Application No.1265 of 2016 is restored. As a consequence, the interim order also stands restored.

7. Since the criminal application seeking quashing of the criminal proceedings was filed in the year 2016 and its restoration effectively restores the interim order also, we are of the opinion that the application should be heard finally and disposed of at the earliest.

8. In view of the above, issue notice to Respondent No.2 on the restored Criminal Application No.1265 of 2016, returnable on **07.01.2026**. Additionally, the applicants are directed to serve Respondent No.2 by way of private service and to file an affidavit of service before the next date of listing.

9. The notice in the regular course shall be served through the concerned Police Station.

(MANJUSHA DESHPANDE, J.)

(MANISH PITALE, J.)

Kartikeya, PA.