

(2013) 01 BOM CK 0170

In the Bombay High Court

Case No : Criminal Application (APL) No. 588 of 2012

Suresh Uttamrao Dhawale

APPELLANT

Vs

The State of Maharashtra and Others

RESPONDENT

Date of Decision : 11-01-2013

Acts Referred:

Banking Regulation Act, 1949 — Section 6, 6(1)
Income Tax Act, 1961 — Section 80P, 80P(2)(a)(i)
Penal Code, 1860 (IPC) — Section 109, 34, 419, 420, 468

Citation : (2013) ALLMR(Cri) 2131

Hon'ble Judges : M.L. Tahaliyani, J

Bench : Single Bench

Advocate : S.A. Mohta, for the Appellant; M.J. Khan, Addl. P.P. for Non-applicant No. 1 and Respondent 2 and 3 are absent, for the Respondent

Final Decision : Disposed Off

Judgement

M.L. Tahaliyani, J.—Admitted. Heard finally by consent of counsel for the parties. Heard learned counsel Mr. S.A. Mohta, learned counsel for the applicant and Mr. M.J. Khan, learned Addl. P.P. for non-applicant no. 1-State. Respondent nos. 2 and 3 have chosen to remain absent though served. The applicant is one of the accused in Regular Criminal Case No. 1669/2009. The applicant had applied for his discharge of all the charges levelled against him. The learned trial Court had discharged the applicant and three others of the offences punishable u/ss. 420, 468, 471 read with section 109 of the Indian Penal Code. However, the learned trial Court has declined to discharge them of the offences punishable u/ss. 419 and 494 r/ws. 34 of the IPC. The order of the learned trial Court declining to discharge the applicant of rest of the two offences was challenged before the Sessions Court in Revision Application No. 351/2011. The said Revision Application came to be dismissed for want of prosecution as the process fee was not paid. The applicant applied for restoration of the Revision Application. The learned Sessions Judge rejected the Application holding that the Sessions Court has no powers to restore the dismissed Revision Application.

2. Without going into the merits of the order as to whether the Sessions Court has such powers or otherwise, it is abundantly clear that the Application need to be restored so that it could be heard on merits. The applicant undertakes to pay the process fee within two weeks from today. Hence I pass the following order:-

ORDER:

The Revision Application No. 351/2011 shall be restored to the file of learned Additional Sessions Judge-4, Nagpur. The applicant shall pay the process fee within two weeks from today. The Application stands disposed of accordingly.