

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**CRIMINAL APPEAL NO.1109 OF 2025**

Employees State Insurance  
Corporation

...Appellant.

V/s.

Mohammad Hussain & Anr.

...Respondents.

.....  
Mr. Shailesh S. Pathak for the Appellant.

Mrs. Rutuja Ambekar, APP for the Respondent/State.

.....  
**CORAM : N.R. BORKAR, J.**  
**DATE : 24.09.2026.**

**P.C. :**

1. This appeal takes exception to the judgment and order dated 6.2.2016 passed by the learned Additional Sessions Judge, Greater Mumbai in Criminal Appeal No. 618 of 2015.

2. The appellant-corporation herein had filed the complaint case against respondent No.1 for the offences punishable under Section 85(a) read with 85(i)(b) of the Employees State Insurance Act. By the judgment and order dated 10.6.2015, the trial Court convicted the respondent No.1 herein for the said offences and sentenced him to suffer S.I. for one month.

3. Being aggrieved by the aforesaid judgment and order of the trial Court the respondent No.1 preferred an appeal. By the impugned judgment and order, the learned Additional Sessions Judge has allowed the appeal and acquitted the respondent No.1.

4. This Court by order dated 14.10.2025 admitted the present appeal and ordered action under Section 390 of Code of Criminal Procedure.
5. The report submitted by the concerned police station pursuant to the said action shows that the respondent No.1 has closed down the shop and his whereabouts are not known.
6. The learned counsel for the appellant-corporation, on instructions, submits that in spite of best efforts the whereabouts of respondent No.1 could not be traced.
7. Considering overall facts and circumstances, the present appeal cannot be decided on merits unless respondent No.1 is served. The Appeal is therefore, disposed of with liberty to the appellant to seek restoration of the appeal in case respondent No.1 is traced out.
8. Needless to mention that disposal of the appeal shall not be treated as confirmation of the judgment and order of the Sessions Court on merits.
9. The Appeal is disposed of in the aforesaid terms.

**[N.R.BORKAR, J.]**