

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3385 OF 2014
IN
CRIMINAL APPLICATION NO. 3384 OF 2014
(Usman Rasul Tamboli Vs. The State of Maharashtra and
another)

Mr. Balaji S. Shinde, Advocate for the applicant
Mr. P.N. Muley, A.P.P. for the respondent-State
Mr. V.C. Solshe, Advocate for respondent No. 2

CORAM : M.T. JOSHI, J.
DATE : 02/09/2015

ORAL ORDER :

1. Heard both sides.
2. The learned counsel for respondent No. 2 filed on record a copy of the order dated 15th June, 2015, passed by this Court in Criminal Application No. 3387/2014. The same is taken on record and marked "X" for the purposes of identification.
3. The record would show that the similar facts were pleaded by the present applicant/appellant while seeking condonation of delay and the same medical certificate was placed, in the above matter i.e. Cri. Application No. 3387/2014. Likewise the learned counsel

for respondent No. 2 also took me through the true copy of the rojnama of Special Civil Suit No. 40/2012, copy of which is filed on record of the present application at Exhibit-R-2/1, which would show that the present applicant was very well present in the civil court during the period for which condonation of delay is sought.

4. Besides above, the complaint does not disclose any of the ingredients of offence punishable under section 465 of the I.P. Code, as detailed by the learned Judicial Magistrate First Class, Kallam in the impugned order.

5. Learned counsel for the applicant submits that the process was issued by the learned Judicial Magistrate First Class only for the offence punishable under section 465 of the I.P. Code and did not issue the process for other offences. The said order dated 17.10.2013, however, was not challenged by the present applicant at that time.

. In the circumstances, liberty to challenge the said order as per the due process of law in appropriate

proceeding is hereby granted, which shall be decided on its own merit by the concerned court.

6. For the foregoing reasons, no case is made out for condonation of delay. The criminal application No. 3385/2014, for condonation of delay, is therefore dismissed. In view of dismissal of application for condonation of delay, the criminal application No. 3384/2014 for grant of leave to file appeal does not survive and hence, stands dismissed accordingly.

[M.T. JOSHI]
JUDGE

npj/criapln3385-2014