

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders

CRIMINAL APPLICATION NO. 3692 OF 2014
IN APPLN/3691/2014 WITH APPLN/3691/2014

THE STATE OF MAHARASHTRA
VERSUS
RAJKUMAR NARAYAN SWAMI AND ANOTHER

...
APP for Applicant / State : Mr.M.M. Nerlekar.
Advocate for Respondent 1 : Mr.Anil H. Kasliwal (Jain).
Respondent No.2 Served.

...
CORAM : S.S. SHINDE & A.I.S. CHEEMA, JJ.
Dated: JULY 22, 2015

...
This application has been filed for
condonation of delay of 21 days caused in filing
appeal. The learned APP appearing for the State
invited our attention to the contents of the
application and submits that, in the interest of
justice, delay deserves to be condoned.

2 On the other hand, learned Counsel for the
accused submits that no specific reasons are given
in the application. Merely because the applicant /
appellant was overburdened, is no ground for
condoning the delay. In support of this contention,

learned Counsel for the respondent No.1 pressed into service exposition of the Supreme Court in case of **P.K. Ramachandran v. State of Kerala and another**¹, and in particular, paragraphs 5 and 6 thereof.

3 We have heard learned APP for the applicant / State and the learned Counsel for the respondent No.1, perused the contents of the application for condonation of delay. There is delay of only 21 days caused in filing appeal against order of acquittal of the accused. In our opinion, in case delay is not condoned, the ultimately sufferer will be the complainant and the society at large. The legislators have made available right of appeal to the original complainant under Section 372 of Cr.P.C. Though the complainant is not before this Court but, on interpretation of provisions of section 372 of Cr.P.C., this Court in case of **Mohd. Azim Sheikh Ibrahim & Ors. vs. Mehamuda Anjum Mohd. Azim & anr.**², has taken a view that, no period of limitation is provided for appeals which are made permissible under proviso of section 372 Cr.P.C. Keeping in view the provisions of section 372 of Cr.P.C. and exposition of this Court in case of **Mohd. Azim Sheikh Ibrahim** (supra), we are inclined to

1 AIR 1998 SC 2276;

2 2015(1) Bom.C.R. (Cri) 733;

condone the delay.

4 In the case of **P.K. Ramachandran** (supra), there was delay of 565 days in filing appeal, which was not satisfactorily explained. Therefore, the present case is distinguishable on facts vis-a-vis the case of **P.K. Ramachandran** (supra).

5 For the aforesaid reasons, application is allowed in terms of prayer clause (B) and stands disposed of.

List the Criminal Application No.3691 of 2014 for hearing on 4th August, 2015.

(A.I.S. CHEEMA, J)

(S.S. SHINDE, J)

kadam/