

**IN THE HIGH COURT OF BOMBAY AT GOA**

**CRIMINAL MISC. APPLICATION NO. 182 OF 2014**

**IN**

**STAMP NUMBER MAIN NO. 3793 OF 2011**

COMMUNIDADE OF CORTALIM THROUGH  
ITS ATTORNEY SHRI SAVIO MISQUITA

... Applicant

Versus

STATE THROUGH THE ID PUBLIC  
PROSECUTOR AND 4 ORS.,

... Respondents

Mr. P. Sawant, Advocate for the applicant.

Mr. S. R. Rivankar, Public Prosecutor for the respondent no.1.

Mr. S. Godinho, Advocate holding for Mr. E. O. Mendes, Advocate  
for the respondent no.3.

Mr. J. Simoes, Advocate for the respondent nos.2, 4 and 5.

Coram:- C. V. BHADANG, J.

Date:- 23rd March, 2015

P.C.

Heard Shri Sawant, learned Counsel for the applicant, Shri Rivankar, learned Public Prosecutor for the respondent no. 1, Shri Godinho, learned Counsel holding for Mr. Mendes, Advocate for the respondent no.3 and Shri Simoes, learned Counsel for the respondent nos.2, 4 and 5.

2. This is an application for condonation of delay of 31 days in filing Criminal Revision Application.

3. On the basis of a complaint lodged by the applicant, there was a State case in which the respondent nos. 2 to 5 were prosecuted for the offences punishable under Sections 465, 468, 471 and 420 read with Section 34 of Indian Penal Code (I.P.C., for short) in Criminal Case No. 142/S/2003/A in the Court of Judicial Magistrate, First Class, Vasco-da-Gama. By judgment and order dated 30/07/2011, the respondents no. 2 to 5 came to be acquitted of the offences as charged. Feeling aggrieved, the original complainant seeks to challenge the same in the present Revision Application.

4. It is submitted by the learned Counsel for the applicant that the State has not filed an appeal challenging the acquittal. In so far as the reason for delay is concerned, it is contended that there was a change of the body of the comunidade and present body had taken over some time in the third week of June, 2011. However, the actual charge was handed over in July, 2011. In the meantime, the impugned judgment came to be passed on 30/07/2011, of which the applicant was not aware. It is submitted that the delay is neither intentional nor arising out of absence of diligence. It is, therefore, submitted that the applicant has sufficient cause for not filing the Criminal Revision Application within time.

5. The learned Counsel for the respondent nos. 2 to 5 have opposed the application. It is submitted that the delay is not properly explained. It is submitted that when the applicant had already

succeeded the earlier body in the third week of June, 2011, it is not acceptable that it would not be aware of the passing of the judgment in July, 2011.

6. The learned Public Prosecutor for the respondent no. 1 supports the applicant.

7. On hearing the learned Counsel for the parties and having regard to the nature and extent of delay and the fact that there was change of guard, in as much as the present body had taken over in June, 2011, I find that the delay deserves to be condoned.

8. Accordingly, the application is allowed. The delay in filing the Criminal Revision Application is hereby condoned. It is made clear that the issue about maintainability of the Criminal Revision Application is expressly kept open.

9. The application is disposed of in the aforesaid terms.

C. V. BHADANG, J.

SMA