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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPEALATE JURISDICTION

CRIMINAL APPLICATION No. 494 of 2013

Pramod Mahadeo Jadhav

..Applicant.

(Original Complainant)

Versus.

Dnyandev Ramchandra Ingale & others

..Respondents.

Mr Sachin Deokar, i/by V.V. Purwant, Advocate for the Applicant.

Mrs P.P. Bhosale APP for the State.

Mr M.V. Thorat, Advocate for the Respondents.

CORAM : A.R.JOSHI,J

DATE : 30th JUNE, 2015

PC. :

1) Heard learned Counsel for the applicant and also heard learned Counsel for the respondents. This is an application for condonation of delay of six years and 237 days in preferring the appeal challenging the acquittal.

2) The facts of the case are rather curious in nature as what is challenged by way of present proceeding before the High Court along with application for condonation of delay is

the order of the acquittal passed by the Sessions Court, Solapur in Sessions Case No. 231 of 2004. In fact, all the present respondents were tried in the Sessions Court for the offence under sections 147, 148, 324, 326 and 337, r/w 149 of IPC. Admittedly, all these offences are triable by the JMFC Court and not by Sessions Court. However, during the arguments, it is brought to the notice of this Court by the Counsel of the rival parties that apparently this must have happened because of the counter case lodged on the complaint by the present respondents' party against the present applicant and his other associates for the offence u/s 302 of IPC and said Sessions Case was tried by the Sessions Court thereby convicting some of the accused for the offence u/s 302 and against some of the accused u/s 324 of IPC r.w.s 34 of IPC. Whatever it might be, the factual position is that the Sessions Case No. 231 of 2004 was tried and disposed of by the learned Addl. Sessions Judge, Solapur, thus, acquitting all the present respondents, then 15 accused persons and this order is challenged much belatedly after six years and 237 days in appeal.

3) During the arguments, the learned counsel for the applicant/original defacto complainant stated that the delay is caused because of no knowledge to the complainant whether he can prefer any appeal / proceeding, challenging the acquittal of the present respondents which was passed in the year 2006. The said Judgment and order of acquittal is dated 6th October,

2006. It is strenuously argued on behalf of the applicant that when the applicant and his other associates attended this High Court in response to the notice issued directing them to appear in the appeal preferred by them, they met their Advocate and informed him regarding acquittal of the respondents in S.C. No.231 of 2004. Thereafter, on the advise of the advocate, they asked for a certified copy and obtained it and then on legal advise they had preferred the present appeal along with application for condonation of delay.

4) The learned counsel for the respondent Nos. 1 to 15 stated that there is no cause which can be accepted so as to condone such a massive delay of more than six years. Moreover, the acquittal of the respondents was well within the knowledge of the original complainant and as such no case is made out for grant of the relief by condoning the delay.

5) Considering the rival submissions and considering that the matter is old one, in the opinion of this Court, it is not warranted that such delay of six years and 237 days can be condoned and to allow the complainant to re-agitate the matter regarding acquittal of the respondents. In the result, present application for condonation of delay is dismissed and accordingly disposed of.

(A.R.JOSHI, J.)