

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRI. WRIT PETITION NO. 128 OF 2015**

Rameshchandra Dumir & Others. ... Petitioners.

V/s.

The State of Maharashtra & Anr. ... Respondents.

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Mr. Shilpan Gaonkar i/by Rajesh Khobragade, Advocate for the Petitioners.

Ms. A. Malhotra, A.P.P. for the State.

Mr. Vivek Singh, Advocate for Respondent No.2.

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**CORAM : A.V. NIRGUDE, J.**

**DATE : 01<sup>st</sup> DECEMBER, 2015.**

**P.C. :**

1            This petition challenges order dated 30<sup>th</sup> October, 2014 passed by the learned additional Sessions Judge, Greater Bombay, dismissing the petitioners / applicants application, seeking condonation of delay caused in filing revision application. Respondent No. 2 is the complainant. He filed a complaint, alleging offences punishable under sections 406 & 420 of IPC against the petitioners. The learned Magistrate issued process against the petitioners/applicants on 22<sup>nd</sup> July, 2011. Later on, belatedly, the petitioners came before this court by filing a writ petition in February, 2012. They withdrew the same on 10<sup>th</sup> October, 2012 and thereafter, on 16<sup>th</sup> December, 2013 they filed a revision application before

the learned Sessions Judge. There was obviously delay and the learned Sessions Judge refused to condone the delay. Having regard to the facts of the case and pendency of the writ petition in this court, it can certainly be said that the petitioners did not approach even the High Court within time. So there is no doubt that there was delay in filing of the revision, but in the facts and circumstances of the case, it was necessary for the learned Sessions Judge to condone the delay and to examine the case on merits. An opportunity to contest the matter on merits could not have been refused. In case the applicants succeed in getting the order set aside, the entire exercise of the trial court would come to end. I am, therefore, inclined to set aside the impugned order.

2           The writ petition is allowed. The impugned order is modified as under :

- i) The delay of 236 days is condoned on payment of cost of Rs.5000/-.
- ii) The cost shall be deposited by the petitioners in the revisional court within two weeks from today.
- iii) In case the cost is not deposited, the present writ petition shall stand dismissed without further reference to the court.

(A.V. NIRGUDE, J.)