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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION No. 935 of 2011

M/s D.Pratap

..Applicant.

Vs

M/s Bhapkar Infrastructure
Development India Ltd & Ors

.. Respondents.

Mr Yuvraj Tribhuvan i/by Jayesh R. Kocheta for the Applicant.

Mr A.R. Patil, APP for the State.

Ms Mrunalini Panchal a/with Rajani Bhor i/by M/s MRK Law
Associates for Respondent Nos. 1 to 3.

CORAM : A.R.JOSHI,J

DATE : 3rd July, 2015

P.C. :

1) Heard rival submissions on the condonation of delay of 130 days in filing the appeal along with application for leave to file appeal. The learned counsel for the applicant submitted that because of the financial problem the complainant could not approach his Advocate in time and could not prepare the papers for filing the appeal. Counter to this, the learned Counsel for the Respondent Nos. 1 to 3 placed reliance on the following authorities :-

(1) Ramlal and Ors Vs. Rewa Coalfields Ltd¹

(2) Banwarilal and sons Pvt Ltd vs. Union of India and Anr²

2) She submitted that day-to-day delay is required to be explained and that the financial problem cannot be considered as sufficient ground for condoning the delay and which is in fact to the extent of 130 days.

1-AIR 1962 Supreme Court 361

2 AIR 1973 Delhi 24

3) The main matter which was dismissed acquitting the respondent Nos. 1 to 3 original accused is the matter for taking action against them for dishonour of cheques. The total amount of dishonour of cheques is more than Rs.42 lakhs. Needless to mention that the cases under the Negotiable Instruments Act are required to be dealt with expeditiously and to be disposed of within a period of six months. However, the cheques are of the year 2008 and the impugned decision is of 2011. The amount is not small and definitely it can be considered that a person may require financial help to meet the Advocate and prepare the challenge to the acquittal. Only on technicality as to delay in challenging the acquittal of respondent Nos. 1 to 3 in the matter involving dishonour of cheques more than Rs.42 lakhs, the present application cannot be thrown out. In other words, in the opinion of this Court, the delay is required to be condoned and the matter can be placed for admission after hearing the rival parties at length on the merits of the case to ascertain whether interference in the order of the acquittal is necessary.

4) In view of the above, the present application for condonation of delay is allowed. Delay is condoned. Application is disposed of.

5) The applicant to provide copy of the application for leave to file appeal and other documents to the learned Counsel for the respondents before the next date. Respondent Nos. 1 to 3 to waive service. Learned APP for the State for Respondent No. 4 also waives service. The application for leave to file appeal be numbered and it be placed on board for admission on 24th July, 2015.

(A.R.JOSHI, J.)