

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPLICATION NO.355 OF 2015
{For Condonation of Delay}
IN
REVISION APPLICATION [STAMP] NO.413 OF 2015
WITH
REVISION APPLICATION [STAMP] NO.413 OF 2015

Rubabuddin Shaikh Applicant
Vs.
Amit Anilchandra Shah & Ors. Respondents

Mr. Gautam Tiwari with Mr. Prateik Parija for the Applicant.

Mr. S.V. Raju, Senior Advocate with Mr. C.D. Mehta and Mr. Khushabu Jain i/b Dhruve Liladhar & Co. for Respondent No.1.

Mr. Sandeep K. Shinde with Mr. Y.M. Nakhwa for Respondent No.2-CBI.

Ms R.V. Newton, APP, for the Respondent-State.

Mr. Ayaz Khan i/b Ms Zehra Charania for the proposed Intervener.

CORAM: A.V. NIRGUDE, J.

DATED: NOVEMBER 23, 2015

P.C:

Mentioned. Not on board. Taken up on board on request.

2. Heard. The applicant-Rubabuddin Shaikh is present in person before the Court. He stated that he wants to withdraw his application for condonation of delay of 98 days in filing Criminal Revision (Stamp) No.413 of 2015. When asked whether he wants to file any other case in future with respect to the subject-matter of the revision application, he answered in the negative.

3. After the filing of the present application, the applicant personally filed an affidavit, stating therein that due to communication gap between him and his earlier Advocate Mr. Mihir Desai, the revision was filed. He stated that he wanted to withdraw the application. He had personally remained present before the Court on 5-10-2015, 6-10-2015 and 20-10-2015. On all three occasions, the applicant had expressed his desire to withdraw the application. My learned predecessor thought it fit to listen to his statement in chamber, in the presence of his Advocate Mr. Mihir Desai. Accordingly, my learned predecessor

heard the applicant in the chamber. At that time, he sought one month's time on the ground that he was not keeping good health. It is thereafter, for the first time, the applicant is present before the Court, and in the open Court he reiterated his desire not to proceed with the case.

4. The present application is merely for condonation of delay and if it is sought to be withdrawn, there is no occasion for the Court to go into the merits of the case. The applicant is given a clear understanding that in future it will not be open to him to make a similar application. Besides, the prosecution agency did not challenge the impugned order.

5. Before I heard the statement of the applicant in the open Court, learned Advocate Mr. Ayaz Khan sought intervention in the matter. He said that his client, one Mr. Harsh Mander, has filed Criminal Application No.1248 of 2015 in this Court and the learned Judge before whom said application had come up, after hearing the submissions of the learned senior

counsel for the applicant therein, directed the Registry to do the needful for tagging it with the present case. Mr. Ayaz Khan also mentioned that since the order on said application was passed during the last working Saturday and the same being not yet ready, further needful could not be done by the Registry. Having regard to the time factor, this is natural. However, the application of Mr. Ayaz Khan's client would give rise to different questions, mainly because Mr. Ayaz Khan's client is neither a party to the proceedings before the trial Court nor he is an aggrieved party. So, the present application is quite an independent proceedings and deserves to be concluded in view of the facts that are mentioned above.

6. As stated above, the applicant has visited Mumbai from a village in Madhya Pradesh, almost for about four times; he is suffering from cancer and also has some physical disability. Having regard to his position, I think it is proper for me to dispose of this application, without further loss of time.

7. In view of the above, Criminal Application No.355 of 2015 in Revision Application (Stamp) No.413 of 2015 is disposed of as withdrawn. In view of withdrawal of the application for condonation of delay, the Revision Application (Stamp) No.413 of 2015 does not survive and it accordingly stands disposed of.

(A.V. NIRGUDE, J.)