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

CRIMINAL WRIT PETITION NO.879 OF 2016

Nitin Bhalchandra Hande and Anr.	...Petitioners
Versus	
The State of Maharashtra and Anr.	...Respondents

Mr.Ujwal R. Agandsurve, for the Petitioners.

Mr.V.B.Konde-Deshmukh, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 24th AUGUST, 2016

P.C. :

1. Heard learned Counsel for the petitioners and the learned A.P.P.
2. The office noting shows that notice issued to respondent no.2 is received back duly served.
3. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal at the stage of admission.

Learned APP waives service on behalf of Respondent - State.

4. By this petition, the Petitioners have impugned the Judgment and Order dated 29th January, 2016, passed by the learned District Judge – 2 and Additional Sessions Judge, Solapur, below Exhibit – 1 in Criminal Miscellaneous Application No.937 of 2015, by which his application for condonation of delay in filing the Revision Application against the order issuing process came to be rejected.

5. Learned Counsel for the petitioners state that the learned Judge ought to have taken a liberal view of the matter considering the fact that the delay was of only 4 months and 8 days. He submitted that the delay ought to have been condoned and the Revision Application ought to have been heard and considered on merits.

6. Learned APP states that he has no objection if the impugned order is quashed and set aside and the matter is remitted back to the trial Court for deciding the said application afresh on merits.

7. Perused the petition in particular the impugned Order dated 29th January, 2016. It appears that there is a delay of 4 months and 8 days in filing the Revision Application.

8. Considering the fact, that the petitioners are accused, who are aggrieved by the order issuing process, an opportunity ought to have been given to them, and the Revision ought to have been heard on merits, after condoning the delay. Accordingly, in the interest of justice and considering the peculiar facts of this case, the impugned Order dated 29th January, 2016, passed by the learned District Judge – 2 and Additional Sessions Judge, Solapur, below Exhibit – 1 in Criminal Miscellaneous Application No.937 of 2015, is quashed and set aside. The delay condonation application being Criminal Miscellaneous Application No.937 of 2015, filed for condonation of delay in filing the Revision Application, before the learned District Judge – 2 and Additional Sessions Judge, Solapur, is allowed and delay is condoned. The Registry of the Sessions Court to number the Revision Application filed by the petitioners and thereafter the learned Judge shall decide the said Revision Application on its own merits, in accordance with law, after hearing the parties.

9. Rule is made absolute in terms of prayer clause (b).
10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.