

nsc.

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

**CRIMINAL APPLICATION NO.235 OF 2015
(For Condonation of Delay)**

**IN
CRIMINAL APPLICATION NO. OF 2015
(For leave to appeal)**

The State of Maharashtra

...Applicant

Versus

Bharat Fakira Shinde

...Respondent

Mr.A.S.Shitole, A.P.P for the Applicant-State

Mr.Rahul Tambe, for the Respondent.

CORAM : REVATI MOHITE DERE, J.

DATE : 1st AUGUST, 2016

P.C. :

1. Heard learned APP for the Applicant - State.
2. By this application, the Applicant – State seeks condonation of delay of 3 years and 334 days in filing the aforesaid Criminal Application for leave to file appeal against the Judgment and Order of acquittal dated 16th December, 2010, passed by the Learned Assistant Sessions Judge – 5,

Nashik in Sessions Case No.6 of 2008.

3. Learned APP states that the delay is neither intentional nor deliberate but purely circumstantial as the applicant – State was pursuing a wrong remedy. He submitted that against the aforesaid Judgment and Order, the Applicant – State filed an Appeal before the Sessions Court at Nashik challenging the order of acquittal of the respondent – accused. Subsequently, the said appeal was withdrawn on the ground that the appeal was not maintainable before the Sessions Court.

4. Perused the papers. It appears that the delay caused in filing the aforesaid Criminal Application for leave to file appeal against the Judgment and Order of acquittal dated 16th December, 2010 is neither intentional nor deliberate but purely circumstantial.

5. For the reasons set out in the application, application is allowed and delay is condoned. The application is accordingly disposed of.

6. Learned Counsel for the respondent prays that Criminal Application for leave to file Appeal be listed on 22nd August, 2016.

7. Accordingly, Criminal Application for leave to file Appeal be numbered and listed for 'admission' on 22nd August, 2016.

REVATI MOHITE DERE, J.