

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

CRIMINAL WRIT PETITION NO.2492 OF 2016

Mr.Moiz J. Dhorajiwalla

.... Petitioner

versus

Lodge Islam No.27 & Ors.

... Respondents

Mr.A.P. Mundargi, Senior Advocate i/b. Amit P. Ghag, Advocate
for the Petitioner.

Mr.Narayan Sahu, Advocate i/b. Federal & Rashmikan, Advocate
for Respondent Nos.1 to 4.

Ms. Pallavi Dabolkar, APP for the State/Respondent No.5.

CORAM : MRS.MRIDULA BHATKAR, J.

DATE : 05th DECEMBER, 2016.

P.C. :

1. This Criminal Writ Petition is filed for quashing of the order of process, which is passed u/s 340 of Code of Criminal Procedure, by the learned Additional Chief Metropolitan Magistrate, 37th Court, Esplanade, Mumbai, on 07/08/2015 and so also to quash and set aside the order dated 13/04/2016 passed by the learned Sessions Judge in the Miscellaneous Application No.243/2016, thereby rejecting the prayer of condoning the delay of 140 days in filing Criminal Appeal before the learned Sessions Judge.

Nesarikar

2. The learned counsel for the petitioner submits that in this Writ Petition at this stage, he is not pressing the prayer of quashing of order passed by the learned Magistrate on 07/08/2015, which is mentioned at prayer clause (a) and (b) of this petition. He confines his prayer only for the condonation of delay application. He submits that there is delay of 140 days in filing Criminal Appeal as the petitioner was busy in his office work and he was traveling continuously. He submits that he is facing prosecution u/s 340 of Cr.P.C. and it is a serious matter. The learned counsel for the respondent Nos.1 to 4 and learned APP for the State/respondent No.5 is present.

3. In view of the submissions and considering the order dated 13/04/2016, I am of the view that the petition is allowed in terms of prayer clause (c). The delay of 140 days is condoned with cost, subject to costs of Rs.10,000/- to be paid by the petitioner to respondent Nos.1 to 4 on or before 14/12/2016.

4. Rule is made absolute in above terms.

(MRIDULA BHATKAR, J.)