

Anand

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

CRIMINAL APPLICATION NO.1049 OF 2016

Shaikh Mohammed Abdul Basith .Applicant

Vs.

Karvy Financial Services Ltd. .Respondents
& anr.

Ms Farhana Shah, Advocate, for the Applicant
Mr.Murtaza Nazmi i/b. Vikas Salvi & Associates,
Advocate, for the Respondent No.1
Ms Anamika Malhotra, APP, for the Respondent
No.2 – State

CORAM : REVATI MOHITE DERE, J.

DATE : 06.09.2016

P.C.

. At the outset, learned counsel for the Respondent No.1 raises a preliminary objection. He submits that the Applicant has directly approached this Court instead of filing the Revision Application challenging the order issuing process. In view of the objection raised by the learned counsel for the Respondent No.1, learned counsel for the Applicant seeks leave to

withdraw this Application with liberty to file an appropriate Revision Application in the Sessions Court challenging the order of issuing process. Learned counsel for the Applicant submits that in the meantime, till the Revision Application is filed by the Applicant and the same is decided, learned counsel for the Respondent No.1 ought not to insist on the presence of the Applicant in the trial Court. Learned counsel for the Respondent No.1 on instructions states that till the Revision Application is decided, the Respondent No.1 will not insist on the presence of the Applicant in the trial Court. Learned counsel for the Applicant submits that there will be delay of around 640 days in filing the Revision Application and that the delay will come in the way of the Revision Application. Learned counsel for the Respondent No.1 states that if the Applicant files a Revision Application within

two weeks from today, the Respondent No.1 will not object to the delay condonation Application, if filed in the Revision Application.

2. Accordingly, the Application is disposed of as withdrawn with liberty to the Applicant to file an appropriate Revision Application in the Sessions Court alongwith the delay condonation Application. In view of the statement made by the learned counsel for the Respondent No.1 that he will not oppose the delay condonation Application, the learned Judge shall keep the same in mind and thereafter, decide the delay condonation Application. The statement made by the learned counsel for the Respondent No.1 is also accepted, that till the Revision Application is decided finally, the Respondent No.1 will not insist on the presence of the Applicant before the trial Court.

3. Accordingly, the Application is disposed of on the aforesaid terms. It is made clear, that this Application has not been heard on merits.

All contentions of both the parties are kept open.

(REVATI MOHITE DERE, J.)