

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 524 OF 2015

ALONGWITH

CRIMINAL REVISION APPLICATION (ST) NO. 622 OF 2015

IN

C.C. NO. 113/SW/2015

Lavlesh Classic Developers Pvt.
Ltd. And Ors.

.....Applicants/Original
Accused nos.1 to 12

V/s.
State of Maharashtra and anr.

.....Respondents

* * * * *

Mr. Rafique Ahmed Shaikh, Advocate for the applicants.

Mr. D.R. More, APP for State, respondent no.1.

Mr. K.M. Sangani, Advocate for respondent no.2.

Coram :- Smt. R.P. SondurBaldota, J.

5th February, 2016.

P.C. :-

1). This application is for condonation of delay of 156 days in filing the Revision Application to challenge the order of issuance of process dated 16th April, 2015. The petitioners had initially filed Criminal Application No. 113 of 2015 to challenge the order. When it was realised by the applicants that, they were prosecuting the proceedings in the wrong Court, they sought leave of the Court to withdraw the same with liberty to file Revision Application before the

appropriate Court. By the order dated 17th November, 2015, the applicants were permitted to withdraw their earlier application with a further observation that since the applicants were prosecuting the proceedings in the wrong Court in the event they filed an application seeking condonation of delay occurred in filing the Revision Application, the same be considered sympathetically. Within a short time thereafter i.e. 15th December, 2015 the applicants filed Revision Application alongwith the present application for condonation of delay.

2). Mr. Sangani, learned Advocate appearing for respondent no.2 opposes the application submitting that it does not make out any case for condonation of delay and in the absence of such a case, this Court ought not to condone the delay. He has made a reference to the decision of Division Bench of this Court in **Mathuradas Mohta College of Science, Nagpur Vs. R.T. Borkar & Ors. reported in 1997 (1) ALL MR page 149**, and a decision of the Apex Court in **Pt. Girdharan Prasad Missir and Another Versus. State of Bihar and another, reported in (1980) 2 Supreme Court Cases page 83**. The contention that the delay has occurred on account of prosecuting the proceedings in the wrong Court, though not taken specifically in so many words in the application, para-3 of the application makes a reference to the same. The applicant has also annexed copy of the order dated 17th November, 2015. In the circumstances, it cannot be said that, there is no case whatsoever made out by the applicant for condonation of delay. Hence, the application is allowed in terms of prayer clause (a). Office to number the Revision Application and place the same on board on 2nd March, 2016.

(SMT. R.P. SONDURBALDOTA, J)