

CRIMINAL APPLICATION NO. 1392 OF 2017

VERSUS

PER COURT :-

2. The applicant has prayed for condonation of delay of 289 days in filing the appeal against the judgment dated 30th March, 2016 passed in Regular Criminal Case No. 81 of 2009 by the learned Judicial Magistrate, First Class, Newasa, Dist. Ahmednagar acquitting respondent no.1 of the offences punishable under Sections 420, 403, 427, 323, 504 and 506 of the

Indian Penal Code.

3. The learned Counsel for the applicant submits that initially the applicant filed Criminal Revision Application No. 5 of 2016 before the Sessions Court, Newasa on 05th April, 2016. However, as the judgment of acquittal required to be challenged by filing an appeal and not by a revision application, the applicant filed an application for withdrawal of the revision application in order to enable him to file an appeal. The said application was allowed on 30th November, 2016. Thereafter, the applicant obtained the copies of the order passed below Exhibit 10 and then filed the present criminal application for condonation of delay on 30th January, 2017. The learned Counsel submits that the delay is not deliberate or intentional. Because of the legal advise that was given to him, he wrongly filed revision application and as such there has been delay.

4. The learned Counsel for respondent no.1 opposed the application. He submits that the ground given by the applicant for delay is not satisfactory. He, therefore, prays that the appeal may be rejected.

5. It seems that due to the legal advice that was given to the applicant, he wrongly filed criminal revision application before the Sessions Court to challenge the judgment of acquittal instead of filing criminal appeal before this Court. The criminal revision application was promptly filed by the applicant within the period of limitation prescribed for filing of appeal. This fact itself shows that the applicant was very much interested in prosecuting his case against the judgment of acquittal. The reason given by the applicant for the delay caused in filing the appeal is quite sufficient and satisfactory. In the interest of justice, I pass the following order :-

O R D E R

- i) The Criminal Application is allowed.
- ii) Delay caused in filing the appeal is condoned.
- iii) Registry shall register the application seeking leave to file appeal against the judgment of acquittal and after registration list the said application on 06th September, 2017.

[SANGITRAO S. PATIL]
JUDGE

SSD