

CRIMINAL APPLICATION NO.2377 OF 2017

Vs.

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DATE : AUGUST 22, 2017

2. The learned Counsel for the applicant submits that the applicant was expecting respondent no.1 – State of Maharashtra to file an appeal against the judgment of acquittal. She was promised by the

concerned Officer that appeal would be filed against the judgment of acquittal, at the instance of the State/prosecution. Therefore, she awaited but no appeal was filed. Consequently, there has been delay of 121 days. He submits that the victim is very much interested in filing the appeal against acquittal. The delay is not deliberate or intentional.

3. The learned Counsel for respondent no.2 submits that there is no justifiable reason for delay in filing the application for leave to file appeal.

4. Since the State/prosecution was actually prosecuting the Summary Criminal Case No.130 of 2015, which was instituted on the basis of the report lodged by the victim/informant, it was natural on the part of the victim/informant to expect that the State/prosecution would file an appeal against the judgment of acquittal, as the victim was promised by the Officer concerned about filing of the appeal at the instance of the State/prosecution. Therefore, the

victim did not file any application seeking leave to file appeal at her own. When she realised that the State is not going to file appeal, she moved this application for condonation of delay along with the application for leave to file appeal against the judgment of acquittal. The grounds shown in the application, are quite satisfactory. The delay, therefore, cannot be said to be intentional or deliberate.

5. Hence, the following order :-

- (i) The application is allowed.
- (ii) The delay caused in filing the application for leave to file appeal is condoned.
- (iii) The application for leave to file appeal be registered.
- iv) Upon registration, issue notice to the respondents, returnable on 07.09.2017. The learned APP waives service of notice on behalf of respondent

no.1 and Mr.Sarawade-Patil, learned Counsel waives service of notice on behalf of respondent no.2.

[SANGITRAO S. PATIL, J.]

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