

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CRI.APPLN.NO.2387 of 2017

9 CRIMINAL APPLICATION NO. 2387 OF 2017

THE UNION OF INDIA
VERSUS
ASHOK SHANKAR PARAB AND ANR

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ASG for Applicant : Mr.Deshpande Sanjeev B.
Mr. A.D.Sonar, Adv., h/f Mr. Patil Vijay B., Adv., for respondent nos.
1 and 2.

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CORAM : P.R. BORA, J.
Dated: September 26, 2017

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PER COURT :-

1. Heard the learned Assistant Solicitor General of India for the applicant and Shri A.D.Sonar, learned Counsel, holding for Shri Vijay B.Patil, learned Counsel for respondent nos. 1 and 2.

2. Delay of 549 days has occurred in filing the present application by the Central Bureau of Investigation (for brevity, 'CBI'), (ACB) in filing an application seeking leave to appeal against the judgment and order passed by the Additional Sessions Judge, Jalgaon, in Special C.B.I. (ACB) Case No.2/2011. In the aforesaid case the respondents were prosecuted for the offense punishable under Section 7, 12, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act.

3. Learned Counsel for the applicant submitted that initially since the opinion received from the Legal Panel Advocate

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was not either in favour of preferring an appeal or not preferring the appeal, the applicants were constrained to approach their Mumbai office and in making such compliances and in appointment of the Panel Advocate and then seeking legal advice from him, time was consumed and that is the reason the appeal and the application seeking leave could not be preferred within the stipulated period of limitation.

4. Learned Counsel, taking me through the impugned judgment, submitted that the learned trial Judge has recorded the finding of acquittal on some superficial grounds though the prosecution has sufficiently proved the demand as well as acceptance of the bribe amount by the respondents. Learned Counsel submitted that opportunity needs to be given to the applicant to agitate its matter on merits by condoning the delay.

5. Learned Counsel for the respondents has seriously opposed for condoning the delay. Learned Counsel submitted that the huge delay has not been sufficiently explained and the justification appears to be given only for the period of 50 days and the delay of around 500 days has remained unexplained. Learned Counsel, therefore, prayed for rejecting the application.

6. After having considered the submissions made by the learned Counsel and after perusing the impugned judgment and the averments in the present application, it appears to me that it

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would be unjust to reject the present application only on the ground that the delay caused is of a huge period. Though it appears that the officers of the C.B.I. could have been more diligent, that cannot be the sole reason for rejecting the application for condonation of delay if it is noticed that there is some merit in the contentions raised in exception to the impugned judgment. It is well settled that sufficiency of cause has to be judged in a pragmatic manner so as to advance the cause of justice. It appears to me that an opportunity needs to be given to the applicant to agitate its matter on merits. I am, therefore, inclined to allow the present application. Hence, the following order:

ORDER

1. Criminal Application for condonation of delay is allowed and disposed of. The delay caused in filing the application seeking leave to prefer appeal is condoned.
2. Register the application seeking leave to prefer appeal. On registration of the application, issue notice to the respondents. Learned Counsel appearing for respondent nos. 1 and 2 waives service for both the respondents. Service complete.
3. List the matter for admission after four weeks.

(P.R. BORA, J.)

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