

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

CRIMINAL APPLICATION NO. 3082 OF 2016

Ramesh S/o Ramdas Salunke .. Applicant

Versus

Santosh S/o Gokul Patghan .. Respondent

.....
Mr R. S. Shinde, Advocate h/f Mr N. L. Choudhari, Advocate for the applicant
Mr Abhay Ostwal, Advocate for respondent
.....

CORAM : VL. ACHLIYA, J.

DATED : 19.01.2017.

PER COURT :

. This application is filed seeking condonation of delay in seeking leave to file appeal against the impugned Judgment & Order.

2. Heard learned counsel for the applicant and respondent.

3. In nutshell, it is the contention of the learned counsel for the applicant that, delay of 50 days occurred in filing the application seeking leave to file appeal was not deliberate but, it was due to time spent in taking the legal advice and presenting an application.

4. On the other hand, the learned counsel for the respondent has opposed the application with contention that the reason assigned in the application nowhere makes out a case to condone the delay. He submits that the reasons assigned cannot be termed as satisfactory explanation as to the delay caused in filing the application.

5. Having regard to the submissions advanced and keeping in mind the broad principles laid down by the Apex Court in the case of Collector, Land Acquisition, Anantnag and another v. Mst. Katiji and others reported in AIR 1987 SC 1353, I am of the view that the delay be condoned. In case, the delay is not condoned, there is every likelihood that the meritorious matter may be dismissed for technical reason. On the contrary, if delay is condoned, no prejudice would be caused to the respondent as the application for leave to file appeal could be heard on merit. So also, the respondent can be well compensated in terms of money for delay caused in condoning the delay. Hence, the following order:

ORDER

- (i) The Criminal Application is allowed subject to costs of Rs. 10,000/- (Rupees Ten Thousand) to be payable by the applicant to respondent within two weeks from the date of this order. The payment of costs is condition precedent to condone the delay. Failure to pay the costs within stipulated time, the application stand dismissed without reference to the Court.
- (ii) Criminal Application stands disposed of in above terms.

[V. L. ACHLIYA]
JUDGE