

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

**CRIMINAL APPLICATION NO. 3348 OF 2016
IN/WITH
CRIMINAL APPEAL STAMP NO. 389 OF 2016**

Dada S/o Dhondiba Dolas

...APPLICANT

versus

State of Maharashtra

...RESPONDENT

.....
Mr. Vishal Bagadiya, Advocate for applicant
Mr. A.D. Namde, APP for respondent - State

...

CORAM : K.K. SONAWANE, J.

DATED : 6th JUNE, 2017.

Order :-

1. Heard learned counsel appearing for the parties. Perused the application. There is delay of 397 days in filing the appeal against the judgment and order dated 19-03-2015 passed in Regular Criminal Case No. 226 of 2008 by the learned Judicial Magistrate F.C, Kannad, District Aurangabad.

2. The learned counsel for the applicant submits that delay in filing the appeal was not intentional or deliberate, but it is accidental and genuine one. It has been caused as the applicant was not aware about the legal provisions and he has been convicted for giving false evidence in the court proceedings before the learned trial Court. In case the delay is not condoned, it would cause prejudice and injustice to the applicant. Hence, learned counsel prays to condone the delay.

3. The learned APP raised objection and submits that there is delay of 397 days and the same has not been explained in proper manner. In such circumstances, delay would not be condoned in the interest of justice.

4. Admittedly, learned trial Court held applicant guilty for the offence punishable under section 344 of the Code of Criminal Procedure and imposed penalty of Rs.500/-(Rupees Five Hundred). There was an amicable settlement in between the applicant and concerned accused in the proceedings. The applicant adduced evidence before the concerned Court in lieu of compromise arrived at between the parties. But, the learned trial Court drawn adverse inference and held applicant guilty under section 344 of the Cr.P.C. Considering the nature of the charges pitted against applicant, I find it justifiable to so, for final hearing into the matter. In such circumstances, delay is required to be condoned, in the interest of justice though it is inordinate one. In case, the delay is not condoned it would cause prejudice to the applicant.

5. Considering the subject-matter and the reasons stated in the application, it is essential to condone the delay. Accordingly, the criminal application is allowed in terms of prayer clause "B". Delay stands condoned. Criminal Application No. 3348 of 2016 stands disposed of accordingly. Criminal Appeal be registered accordingly.

6. In the meanwhile, call for record and proceedings.

7. List the appeal for admission on 3rd July, 2017.

[K. K. SONAWANE]
JUDGE