

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

**921 CRIMINAL APPLICATION NO. 3113 OF 2017
IN
CRIMINAL WRIT PETITION NO. 654 OF 2016**

MAHEEP GUPTA & ORS.

VERSUS

THE STATE OF MAHARASHTRA & ANR.

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Mr. A.S.Kale h/f Talekar & Associates,
Advocate for Applicant.

Mr. S.Y.Mahajan, A.P.P. for R – 1 – State.

Mr. Kalyan Patil h/f Mr. S.R.Barlinge,
Advocate for R – 2.

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CORAM : V.L.ACHLIYA, J.

DATE : 1st AUGUST, 2017

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ORDER :

1. The applicant has moved this application seeking condonation of 119 days delay in filing Criminal Application seeking restoration of petition.

2. Heard learned counsel for the applicant, A.P.P.

for the respondent – State and learned counsel for respondent No. 2. Perused the record and proceedings.

3. In nut-shell, it is the contention of the learned counsel for the applicant that delay was not deliberate. Petition came to be dismissed for non compliance of direction to remove office objection. He submits that inadvertently the counsel for the petitioner could not notice the listing of Appeal on 13/01/2017 and passing of order to remove office objection within the period prescribed and consequential order of dismissal for non removal of office objection. He submits that if the petition is not restored, there is likelihood that the petitioner may suffer serious prejudice.

4. On the other hand, learned counsel for respondent No. 2 submits that no proper justification has been given for seeking condonation as well as restoration.

5. Having appreciated the submissions advanced in the light of reasons assigned seeking condonation of delay and restoration of petition, I am of the view that delay deserves to be condoned and petition be restored by recall of order of dismissal of petition on condition that

office objection will be removed within one week from the date of this order. Accordingly the application is allowed in terms of prayer clauses B and C subject to removal of office objection within one week from the date of this order.

[V.L.ACHLIYA, J.]

KNP/Cr.Apln. 3113.2017 in Cr.W.P. 654.2016