

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 229 OF 2017
IN
STAMP NUMBER MAIN NO. 771 OF 2017

**PRADIP SHANKAR GOVEKAR @ PRADEEP
GOVEKAR.,**

... Applicant

Versus

**STATE OF GOA, THR. THE PUBLIC
PROSECUTOR AND ANR.,**

... Respondents

Shri V. B. Gadnis, Advocate for the applicant.
Ms. S. Bhobe, Advocate for the respondent no.2.

Coram:- PRITHVIRAJ K. CHAVAN, J.

Date:- 5th December 2017

P.C.

By this application under Section 5 of the Limitation Act, the applicant who is an original complainant seeks condonation of delay of 29 days which occurred in preferring an appeal as well as application for leave to appeal against the impugned Judgment of acquittal passed by the learned Judicial Magistrate, First Class, Bicholim.

2. Heard Shri V. B. Gadnis, learned Counsel for the applicant and Ms. S. Bhobe, learned Counsel for the respondent no.2.

3. It is submitted by the learned Counsel for the applicant that after pronouncement of the Judgment by the Trial court on 30.11.2016, he had applied for certified copy on 1.12.2016.

Copy was received on 13.12.2016. However, the applicant was under bonafide belief that the appeal has to be filed before the Sessions Court and, therefore, when he approached the lawyer from the Sessions Court it was realised that appeal will have to be filed in the High Court. Substantial time on account of assigning the matter to the Advocate was spent and, therefore, he seeks condonation of delay of 29 days, as according to him, he has good case on merits. Time consumed in searching for lawyers practicing in the High Court, according to the applicant, is just and sufficient cause to condone the delay. It is submitted that due to financial problem also applicant could not engage a lawyer in the High Court. Ultimately, on 28.2.2017 he approached the present lawyer and then on 8.3.2017, he filed the appeal.

4. Learned Counsel appearing for the respondent no.2 in her reply and arguments submitted that the application is made with malafide intention only to harass the respondent by giving lame excuses. It is submitted that there is no mention of the name of the lawyer, who appeared on behalf of the applicant in the trial Court. It is also submitted that application reveals delay and negligence on the part of the applicant and his explanation is not sufficient. It is also submitted that grave prejudice would be caused to the respondent no.2, if the delay is condoned.

5. Having considered the respective submissions at bar, I am of the opinion that the delay needs to be condoned for the

reasons that the application for certified copy of the impugned judgment appears to have been moved by the applicant immediately on the following day and therefore, it cannot be said that he was negligent. Secondly, the applicant submits that because of his financial difficulty and incorrect belief of preferring an appeal before the District Court some time had been consumed which is a bonafide reason for causing the delay.

6. For the aforesaid reasons, the delay needs to be condoned, as such, the application is granted. Delay is condoned. Application stands disposed of accordingly.

PRITHVIRAJ K. CHAVAN, J.

vn