

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.10 OF 2016

M/s.AJS IMPEX PVT. LTD.

)...APPLICANT

V/s.

ASMITA ENGINEERING PVT. LTD. & ORS.)...RESPONDENTS

Mr.Ashok Saraogi, Advocate for the Applicant.

Ms.Namrata Kadam i/b. Mr.Amarbhatt, Advocate for Respondent Nos.1 to 4.

Mr.Vinod Chate, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 16th AUGUST 2017

P.C. :

1 This is an application for condonation of delay in filing an application for leave to appeal for challenging acquittal of respondent nos.1 to 4 of the offence punishable under Section 138 of the Negotiable Instruments Act.

2 Heard the learned advocate for the applicant as well as the learned advocate appearing for respondent nos.1 to 4. The learned APP appears for respondent no.5.

3 Duly sworn testimony of the applicant / original complainant is to the effect that though certified copy of the judgment and order of acquittal was available to the applicant on 11th February 2015, his learned advocate had retained all papers of the proceedings including the certified copy of judgment and order. After much persuasion, the same was handed over to the applicant in the middle of month of August 2015, which has resulted in delay of lodging the application for leave to appeal.

4 The learned advocate appearing for respondent nos.1 to 4 vehemently opposed this application by contending that there is no sufficient cause for filing an application beyond limitation. It is further argued that the delay is inordinate and the applicant had so many options to get proceedings and order of the trial court. Electronic order is also acceptable.

5 I have considered the rival submissions and perused the pleadings of parties. When technicalities of procedure are pitted against cause of substantial justice, cause of substantial justice should always prevail. By condoning the delay, the ultimate result will be decision of the matter on merits.

6 Considering the reasons stated, I am of the view that the applicant has made out sufficient cause in condoning the delay. Hence the order :

- i) The application is allowed.
- ii) Delay in preferring the application for leave to appeal is condoned.
- iii) Put up the application for leave for **Admission** on **29th August 2017**.

(A. M. BADAR, J.)