

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 838 OF 2016

The North Bombay Central Co-op
Consumers Wholesale and Retail
Stores (Shakar Bazar) and Ors.

.....Petitioners

V/s.

Jairam Pundlik Naik and Ors.

.....Respondents

* * * * *

Mr. S. Shamim i/by. Shamim & Co., Advocate for the petitioners.

Mr. V.V. Gangurde, APP for respondent, State.

CORAM :- SMT. R.P. SONDURBALDOTA, J.

DATED :- 16TH JANUARY, 2017.

P.C. :-

1). This petition challenges the order dated 17th November, 2015 by which the Sessions Court rejected its application for condonation of delay of 362 days in filing the Revision Application to challenge the order of issuance of process for the offences punishable under Sections 420, 441, 442 r/w. Sections 448, 461, 511 read with Section 34 Indian Penal Code. Admittedly, the trial Court issued process by its order dated 30th November, 2013 and the summons was served upon the petitioners on 8th January, 2014 with

a direction that they shall remain present before the trial Court on 18th January, 2014. The petitioners, sought to challenge the order as late as April, 2015.

2). The extensive delay of 362 days is sought to be explained by the petitioners at paras-4 and 5 of the application. The first ground stated at para-4 is that, petitioner no.1 being a Society, was required to take a decision in the meeting of its Board of Directors to challenge the order of issuance of process and it took sometime to get the Resolution passed. The application does not state any details whatsoever of either the Resolution of petitioner no.1 or the details of the meetings of the Board of Directors. Therefore, this ground is absolutely vague and cannot be accepted.

3). The other two grounds stated at para-5 of the application are that, the petitioners were busy with their business activities and that the building of the petitioner Society has been under redevelopment since the year 2012. If the petitioners made a conscious choice of giving priority to their business activities than to file the Revision Application, their choice cannot become a cause sufficient to prevent the petitioner from taking recourse to law within the prescribed period of limitation. As regards the third ground, of the building of the petitioner being under redevelopment, admittedly the redevelopment process started in the year 2012 and service of summons upon the petitioners was two years thereafter i.e. in January, 2014. Therefore, the redevelopment of the building cannot be relevant to the delay in filing the Revision Application. The Sessions Court considered the very aspects of the application as above to reject the same. It has further observed that,

the petitioner has failed to show sufficient and acceptable cause for condoning the delay. I find no infirmity whatsoever in the impugned order. Hence, the petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)