

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.150 OF 2014

OTLAL PURUSHOTTAM SINGH)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA AND ANR.)...RESPONDENTS

Mr.A.A.Siddique, Advocate for the Applicant.

Ms.N.S.Jain, APP for the Respondent – State.

None for Respondent no.2.

CORAM : A. M. BADAR, J.

DATE : 16th AUGUST 2017

P.C. :

1 This is an application for condonation of delay of 642 days in filing an application for leave to appeal challenging acquittal of respondent no.2 of the offence punishable under Section 138 of the Negotiable Instruments Act.

2 Heard the learned advocate appearing for the applicant. None for respondent no.2 / original accused despite service.

3 In tune with pleadings in the application for condonation of delay, it is argued that after judgment of acquittal, the applicant has applied for certified copy of the judgment and order. It is further argued that, thereafter, an application for leave to appeal was drafted along with interim application therein. But all of a sudden, the learned advocate engaged by the applicant went to his native place at Allahabad without filing the application for leave to appeal. It is further argued that the applicant is not having knowledge of law regarding limitation and upon enquiry, he found that his learned advocate Mr.M.P.Mishra has permanently shifted to Allahabad. Therefore, the delay in filing the application for leave to appeal has occasioned.

4 The application is on affidavit. Averments thereof are not controverted by filing counter affidavit. There is no reason to

disbelieve duly sworn testimony of the applicant. The quantum of delay is not material. What is material is reason given for condonation of delay.

5 Considering the averments made in the application, which went unchallenged, I am of the considered view that the applicant has made out sufficient cause for not filing the application for leave to appeal within limitation. Therefore, the order :

- i) The application is allowed.
- ii) The delay in filing the application for leave to appeal is condoned.

(A. M. BADAR, J.)