

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.211 OF 2016

IN

CRIMINAL REVISION APPLICATION (STAMP) NO.254 OF 2016

ABDUL AZIZ MUKADAM AND ORS.)...APPLICANTS

V/s.

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

Mr.S.R.Phanse, Advocate for the Applicant.

Mr.P.H.Gaikwad-Patil, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 22nd MARCH 2017

P.C. :

1 This is an application for condonation of delay in filing the revision petition challenging rejection of application for discharge moved by applicants / accused persons.

2 Office endorsement shows that respondent no.2 / the first informant is duly served. However, none appeared for respondent no.2.

3 Heard the learned advocate appearing for applicants /
original accused. He argued that orders sought to be impugned in
the revision petition was initially challenged by filing a criminal
writ petition but ultimately, it was revealed that proper remedy is
filing of revision petition and therefore, the writ petition was
withdrawn. This has occasioned delay in filing the revision
petition.

2 The learned APP opposed the application.

3 Averments made in the application are on affidavit.
Despite service, respondent no.2 is absent. It is seen that
applicants were prosecuting their remedy but wrong proceedings
were initiated by them. In this view of the matter, the time spent
in prosecuting the criminal writ petition has resulted in delay
which cannot be termed as laches. As such, the application is
allowed.

The delay in filing the revision petition is condoned.

(A. M. BADAR, J.)