

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 2165 OF 2017

Pravin Shivaji Jadhav & Ors.

.. Petitioners

Vs.

The State of Maharashtra & Anr.

.. Respondents

.....

Mr.Vaibhav V. Ugle, Advocate for the Petitioners.

Mr.N.B. Patil, APP for the Respondent – State.

Mr.R.V. Sankpal i/b. M/s.R.V. Sankpal & Associates, Advocate for Respondent No.2.

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CORAM : PRAKASH D. NAIK, J.

DATED : AUGUST 10, 2017.

P.C. :

Petitioner had preferred an Appeal before the Sessions Court challenging the order passed by the learned JMFC, Pune dated 17th November, 2016, wherein the petitioner was directed to pay maintenance to the tune of Rs.5,000/- and he was also directed to pay Rs.4,000/- for accommodation. There was delay in preferring the said appeal. Hence, he preferred Misc. Application No.200 of 2017 seeking condonation of delay. The said application has been rejected by the Sessions Court and thereby the Court has refused to condone the delay.

2 Learned counsel for the petitioner submits that the regular Court hearing the said application was on leave and the application was transferred to incharge Court which application was decided by the latter Court without hearing the petitioner. It is further submitted that in the application for condonation of delay the petitioner has made out case for condonation of delay which has not been considered by the Sessions Court. Learned counsel for the respondents have opposed this petition. It is submitted that the only reason mentioned in the application for condonation of delay is that the petitioner is facing financial constraints.

3 Learned counsel for the petitioner submits that to show his bonafide, he is ready to deposit Rs.25,000/- within a period of three weeks from today with the Appellate Court.

4 It is submitted that the delay may be condoned and the Appellate Court may be directed to hear the Appeal on merits.

5 Taking into consideration above facts, the delay in preferring Appeal can be condoned.

6 Hence, I pass the following order:

:: ORDER ::

- (i) The order dated 23rd May, 2017, passed below Exhibit 1 in Misc. Application No.200 of 2017 is set aside and the delay in preferring the Appeal is condoned;
- (ii) The Sessions Court is directed to hear and decide the Appeal preferred by the petitioner on merits;
- (iii) Petitioner is directed to deposit an amount of Rs.50,000/- towards arrears of maintenance within a period of 30 days from today before the trial Court;
- (iv) The Petition stands disposed of accordingly.

(PRAKASH D. NAIK, J.)